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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

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### TITLE 4. CALIFORNIA HORSE RACING BOARD

#### NOTICE OF PROPOSAL TO AMEND RULE 1467 PAYMASTER OF PURSES

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1467 of the California Code of Regulations, Title 4, Division 4. The proposed amendment requires the paymaster of purses to deduct and deposit into the trainer's account ten percent of the net purse earned on any horse that finishes first, second, or third at a quarter horse race meeting.

#### PUBLIC HEARING

The Board will hold a public hearing starting at **10:00 a.m., Thursday, January 23, 2003**, or as soon after that as business before the Board will permit, at the **Holiday Inn, 924 West Huntington Drive, Monrovia, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on January 13, 2003**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
Fax: (916) 263-6042  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

#### AUTHORITY AND REFERENCE

Authority cited: Sections 19420 and 19440 Business and Professions (B&P) Code.

Reference: Sections 19433 and 19434 B&P Code.

B&P Code Sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific sections 19433 and 19434 B&P Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Rule 1467 describes the duties of the paymaster of purses. The proposed amendment to Rule 1467 expands the duties of the paymaster to include disbursement of ten-percent of the net purse money earned on any horse that finishes first, second or third at a quarter horse race meeting to the trainer's account. The new duties were added at the request of the Pacific Coast Quarter Horse Racing Association following the successful introduction of the program at thoroughbred race meetings. The amendment addresses complaints by some trainers that they were not being paid for their services in a timely manner. Horse owners may elect not to have the ten-percent deducted by the paymaster by filling out form CHRB-134 (New 9/01), Notification Of Exclusion To Trainer 10% Program, which is incorporated by reference. Additional changes to the regulation include renumbering and punctuation.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1467 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1467 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate

existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1467 does not affect small businesses because thoroughbred horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. The Rule sets forth the duties of the paymaster of purses at horse racing associations.

#### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to

Harold Coburn, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Pat Noble, Regulations Analyst  
Telephone: (916) 263-6033  
Jacqueline Wagner, Manager  
Policy and Regulation Unit  
Telephone: (916) 263-6041

#### **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial

statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact persons at the address, phone numbers, or e-mail address listed above.

#### **AVAILABILITY OF MODIFIED TEXT**

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text—with changes clearly marked—shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### **BOARD WEB ACCESS**

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's web site address is [www.chrb.ca.gov](http://www.chrb.ca.gov).

### **TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

#### **NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **January 16, 2003** at 10:00 a.m. in the Auditorium of the State Building, 320 West 4th Street, Los Angeles, California

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **January 16, 2003** following the Public Meeting in the Auditorium of the State Building, 320 West 4th Street, Los Angeles, California

At the Public Hearing, the Board will consider the public testimony on the proposed changes noticed below to occupational safety and health regulations in Title 8 of the California Code of Regulations.

**BUSINESS MEETING:** On **January 16, 2003** following the Public Hearing in the Auditorium of the State Building, 320 West 4th Street, Los Angeles, California.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

**NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS  
BY THE OCCUPATIONAL SAFETY AND  
HEALTH STANDARDS BOARD**

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders and Elevator Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on January 16, 2003.

1. **TITLE 8: CONSTRUCTION SAFETY ORDERS**  
Chapter 4, Subchapter 4  
Article 20, Section 1635  
Article 29, Section 1710  
**Structural Steel Erection Safety Standards**
2. **TITLE 8: ELEVATOR SAFETY ORDERS**  
Chapter 4, Subchapter 6  
New Article 5.1  
New Section 3005  
**Reporting Accidents Involving Listed Devices**

3. **TITLE 8: ELEVATOR SAFETY ORDERS**  
Chapter 4, Subchapter 6  
Article 7, Section 3016  
Article 20, Section 3120.6  
Article 22, Section 3122.0  
**Elevator Pits**

A description of the proposed changes are as follows:

1. **TITLE 8: CONSTRUCTION SAFETY ORDERS**  
Chapter 4, Subchapter 4  
Article 20, Section 1635  
Article 29, Section 1710  
**Structural Steel Erection Safety Standards**

**INFORMATIVE DIGEST OF PROPOSED  
ACTION/POLICY STATEMENT OVERVIEW**

Federal OSHA promulgated regulations addressing Safety Standards for Steel Erection in its Final Rule published January 18, 2001 as part of 29 Code of Federal Regulations (CFR), Subpart R, Sections 1926.750 to 1926.761. In order to allow industry time to comply with the new standard, federal OSHA extended the effective date of the new standard to January 18, 2002.

In response to the Federal Final Rule, the Occupational Safety and Health Standards Board (Board) [in a previous rulemaking action] adopted a majority of requirements contained in Subpart R, under the provisions of the California Labor Code, Section 142.3(a)(3) which addresses the adoption of regulations "substantially the same" as the federal standard(s). These amendments were adopted by the Board at its March 21, 2002 Public Hearing so that the State's steel erection regulations in Title 8 would be at least as effective as the federal standard and became effective for the State on May 1, 2002.

This current rulemaking action was developed with the assistance of an advisory committee convened to address comments received on the rulemaking discussed above and to address consideration for adoption of multiple rigging procedures, controlled decking zone procedures, shinning of columns and amendments of other provisions contained in existing Title 8, CSO Section 1710.

This proposed rulemaking action contains numerous nonsubstantive, editorial, reformatting of subsections, and grammatical revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:



Section 1635. Floors, Walls and Structural Steel Framed Buildings.Subsection (b)(6)

Section 1635(b), in part, contains requirements related to the installation of floors and decking for structural steel framed buildings. Existing subsection (b)(6) states that wire mesh or plywood (exterior grade) shall be used to cover openings adjacent to columns where planks do not fit tightly. An amendment is proposed to add that openings adjacent to columns must be covered where planks “or metal decking” do not fit tightly. The amendment will have no effect upon the regulated public other than to clarify that openings in metal decking near columns are also required to be covered.

Subsection (b)(11)

Existing subsection (b)(11) states that when gathering or stacking temporary floor planks from the last panel, that personnel shall be protected by “safety belts with life lines attached to a catenary line or other substantial anchorage.” An amendment is proposed to delete the quoted language above and require such personnel to be protected by “a personnel fall protection system used in accordance with Article 24.” Safety belts are no longer permitted for fall arrest systems and the amendment will have the effect of ensuring fall protection is used in accordance with existing requirements in the CSO, Article 24.

Section 1710. Structural Steel Erection.

Section 1710 sets forth requirements to protect employees from the hazards associated with steel erection activities involved in the construction, alteration, and/or repair of single and multi-story buildings, bridges, and other structures where steel erection occurs.

Subsections (a)(3) & (4)

Existing subsection (a)(3) lists subsections in Section 1710 that include duties related to controlling contractors. A proposed amendment deletes the phrase “but are not limited to,” which could present a clarity issue with respect to the controlling contractor’s duties. The proposed amendment has the effect of clarifying the duties of the controlling contractor in Section 1710.

A new subsection (a)(4) is proposed that will have the effect of clearly indicating to the employer when the design component requirements of the standard are effective for construction projects in various stages of completion. An effective date is proposed for the design component requirements that is consistent with the effective date of newly adopted amendments for Section 1710 that were effective May 1, 2002.

Section 1710(b) Definitions.

Subsection (b) contains the definitions related to structural steel erection activities. The following definitions are proposed for addition to subsection (b): connector, controlled decking zone (CDZ), controlled load lowering, critical lift, multiple lift rigging, and post. The proposed adoption of these definitions will have the effect of providing clarity to Section 1710 regulations and consistency with the counterpart federal regulations contained in 29 CFR, Subpart R, Steel Erection.

The definition for the term “decking hole” is proposed for deletion. The definition means a gap or a void more than 2 inches in its least dimension and less than 12 inches in its greatest dimension in a floor, roof or other walking/working surface. Pre-engineered holes in cellular decking (for wires, cables, etc.) are not included in this definition. The Construction Safety Orders, Section 1504 contains definitions for “hole” and “opening.” The definitions for “hole” and “opening” in Section 1504 when combined with the requirements in CSO Section 1632(b) and 1632(h) for the guarding of floor openings and holes provide the necessary requirements to protect workers from accidentally falling into a floor hole or opening. Therefore, the definition of “decking hole” is unnecessary and proposed for deletion, which will have the effect of providing clarity to the regulations.

The definition for “hoisting equipment” is proposed for deletion. This definition could be conflicting with itself and with the common usage of this term (e.g., the existing definition infers that hoisting equipment has “a center of rotation”). Not all hoisting equipment in steel erection activities has a center of rotation. The deletion of this definition will have no effect upon the regulated public except to add clarity to the regulations.

Section 1710(c), Site layout and construction sequence.Subsection (c)(3)(B)

Existing Section 1710(c) provides the general requirements for construction site layout and sequence. Subsection (c)(3)(B) requires a safe area for the storage of materials and the operation of the steel erector’s equipment. A proposed amendment adds language that this area must also be adequately compacted to support the intended loads. This amendment will have no effect upon the regulated public other than to clarify the conditions necessary for safe storage of materials.

Subsection (c)(4)

Existing subsection (c)(4) requires all hoisting operations in steel erection to be pre-planned to ensure that the requirements of General Industry Safety

Orders (GISO) Section 5002 “Overhead Loads” are met. A proposed amendment will delete the reference to GISO Section 5002 in lieu of a reference to newly proposed subsection (d)(1) “Working under loads.” The amendment will have the effect of referencing regulations consistent with the federal counterpart regulations and that are more specific to structural steel operations for work under loads.

#### Subsection (c)(5)

A new subsection (c)(5) is proposed to adopt provisions of the “site-specific erection plan” consistent with the federal counterpart standard contained in 29 CFR 1926.752(e). The site-specific erection plan is required when employers develop alternate means and methods to provide employee protection in accordance with the provisions in proposed Sections 1710(d)(9), 1710(h)(1)(C) or Section 1710(h)(5)(D). These sections pertain to provisions when deactivating safety latches on hoisting hooks, alternative erection methods for setting certain steel joists, and conditions/procedures required for placement of decking bundles on steel joists, respectively. The amendments will have the effect of allowing the employer alternative methods and procedures when the provisions of any of the three listed sections above are met including the development of a site-specific erection plan prepared by a qualified person.

#### Section 1710(d) Hoisting and rigging.

##### Subsection (d)(1) Working under loads.

Section 1710(d) contains the provisions for hoisting and rigging procedures. A new subsection (d)(1) is proposed to address safety precautions for work below suspended loads. The proposed subsection also requires that suspended loads be pre-planned to limit exposure to employees working below suspended loads except as necessary for connectors when making initial connections or riggers when hooking or unhooking the load. The amendment has the effect of ensuring that employees will not be unnecessarily exposed to the hazards of suspended loads.

##### Subsection (d)(2) Multiple Lift Rigging Procedure.

Multiple lift rigging (MLR) is also known as “Christmas Treeing.” MLR procedures facilitate the attachment of up to five independent loads to the rigging of a crane. In paragraph 29 CFR 1926.753(e) of Subpart R, Federal OSHA adopted regulations in its steel erection standard to permit MLR procedures. Amendments are proposed in subsection (d)(2) to adopt MLR procedures in California’s steel erection standard that are similar (with some additional requirements) to those in the federal standard. In subsections (d)(2)(A) through (d)(2)(F), specific lifting and rigging procedures are required for compliance with MLR procedures. For example, a MLR lift

is limited to five structural members being hoisted per lift. Rigging procedures must also prevent hazardous contact between structural steel members being hoisted and adjacent structures or workers. All employees engaged in a multiple lift must be trained in accordance with the training provisions outlined in Section 1710(q)(3)(A).

Provided that employers meet all of the provisions in the regulations for MLR procedures, the proposed amendment will have the effect of permitting the lifting of more than one structural steel member on a specific crane lift. In some cases, this may permit the steel erector to complete construction activities in less time with fewer crane lifts.

##### Subsection (d)(3)

Existing subsection (d)(1) is renumbered and proposed as subsection (d)(3). The first sentence in the existing regulation states that the crane or derrick operator shall be responsible for those operations under the operator’s direct control. The first sentence is proposed for deletion and in the second sentence of the regulation it is clarified that the “crane or derrick” operator has the authority to stop and refuse to handle loads until safety is assured. The amendment will have no effect upon the regulated public other than to eliminate the first sentence, which is unclear and unnecessary.

##### Subsection (d)(4)

Subsection (d)(4) contains requirements for landing metal decking bundles. This subsection is merely relocated from existing Section 1710(h)(5)(D). The amendment will have no effect upon the regulated public other than to place the requirement in a more appropriate location relating to hoisting and rigging operations.

##### Subsection (d)(5)

Proposed subsection (d)(5) requires that temporary loads placed on a derrick floor to be distributed over the underlying support members to prevent local overloading of the decking material. The proposed subsection is verbatim to the counterpart federal standard in 29 CFR 1910.754(e)(6)(ii). The amendment will ensure that temporary loads are adequately and safely supported.

##### Subsection (d)(9)

Subsection (d)(9) provides that safety latches on hooks shall not be deactivated or made inoperable unless a qualified person determines the task of placing purlins and single joists is safer by doing so and when the employer has prepared a “site-specific” erection plan. [See explanation about site-specific erection plans under the paragraph for subsection (c)(5)]. The proposal is consistent with the federal

counterpart standard and will have the effect of providing employers the option to deactivate safety latches only when it is safer to do so and the provisions of the subsection are met.

Section 1710(e) Walking/working surfaces.

Subsection (e)(1)(B)

Subsection (e)(1)(B), in part, requires that when shear connectors are used in construction of composite floors, roofs and bridge decks, employees shall lay out and install the shear connectors after the metal decking has been installed, using the metal decking as a working platform. A “note” is proposed for this section as a reminder that Section 1710(n)(8) prohibits the installation of shear connectors within a controlled decking zone. The proposed amendment is an informational reminder and will have no effect upon the regulated public.

Section 1710(f) Column anchorage.

Subsection (f)(2)(A)

Subsection (f)(2)(A) states that anchor rods (anchor bolts) shall not be repaired, replaced, or field-modified without the approval of the structural engineer of record. A “note” is proposed for this subsection stating that minor adjustment of anchor rods (anchor bolts) that do not affect the structural integrity of anchor rods (anchor bolts) are not considered “repairs” for the purposes of this subsection. The note is informational and will have the effect of permitting minor adjustments to anchor bolts (that do not affect the structural integrity of the bolts) without the approval of a structural engineer.

Section 1710(h) Open web steel joists.

Subsection (h)(1)(C)

Existing subsection (h)(1)(C) requires that where steel joists at or near columns span 60 feet (18.3 m) or less, the joist shall be designed with sufficient strength to allow one employee to release the hoisting cable without the need for erection bridging. This section is proposed for repeal because steel joist manufacturers indicate it will take time to develop and manufacture a joist that can comply with this provision. Federal OSHA has postponed enforcement of this provision in its counterpart standard 29 CFR 1926.757(a)(3) as indicated in its compliance directive [Directive Number: CPL 2-1.34] dated March 22, 2002, page 4-11. The repeal of this subsection will eliminate a regulation that cannot be complied with.

Subsection (h)(1)(D)

Existing subsection (h)(1)(D) will be renumbered as subsection (h)(1)(C) in the proposal. This subsection states that where steel joists at or near columns span more than 60 feet (18.3 m), the joists shall be set in

tandem with all bridging installed. An amendment is proposed that will require joists to be set in tandem with all bridging installed unless an alternative method of erection, which provides equivalent stability to the steel joist, is designed by a qualified person and is included in the site-specific erection plan. The amendment will have the effect of permitting alternative methods (e.g., providing bracing above the top of the joist) when a site-specific erection plan has been developed. (Also see the paragraph under subsection (c)(5) with respect to site-specific erection plans.)

Subsection (h)(5)(D)

Existing subsection (h) contains requirements related to open web steel joists. Subsection (h)(5)(D) requires metal decking bundles to be landed on framing members so that enough support is provided to allow the bundles to be unbanded without dislodging the bundles from the supports. The provisions of this subsection are proposed for relocation to proposed subsection (d)(4). The relocation of this section will have no effect upon the regulated public other than to include these requirements in subsection (d) related to hoisting and rigging operations where it is more appropriately located.

Subsection (h)(5)(E)

Existing subsection (h)(5)(E) will be renumbered as subsection (h)(5)(D) in the proposal. The existing subsection states that no bundle of decking may be placed on steel joists until all bridging has been installed and anchored and all joist bearing ends attached, unless the employer meets six specific conditions listed in subsections (h)(5)(D)1. through (h)(5)(D)6. The first condition [subsection (h)(5)(D)1.] requires that the employer has first determined from a qualified person and documented in an erection plan that the structure is capable of supporting the load. An amendment is proposed that will have the effect of providing consistency with the federal counterpart standard in 29 CFR 1926.757(e)(4)(i) to require that the employer document in a “site-specific” erection plan that the structure is capable of supporting the load. The amendment will have the effect of requiring documentation in the “site-specific erection plan” (See proposed Appendix C) in lieu of in an “erection plan” which must be prepared by a civil engineer as required by Section 1709(d).

Section 1710(l) Temporary Flooring-Skeleton Steel Construction in Multistory Buildings.

Subsection (l)(3)

Subsection 1710(l)(3) requires wire rope perimeter safety cables or other guardrail protection at the exposed edges of decked floors. The subsection also requires midrail protection to be installed at the



completion of decking. It is proposed to relocate the provisions for midrail requirements from subsection (l)(3) to a new subsection (l)(4). The relocation of this provision is editorial and will have no effect upon the regulated public.

#### Subsection (l)(4)

A new subsection (l)(4)(A) provides the requirement relocated from existing subsection (l)(3) that midrail protection shall be installed at the completion of decking. A new subsection (l)(4)(B) also requires midrail protection be installed prior to the decked area being used by trades other than the steel erector or the decking crew. Proposed subsection (l)(4)(B) will have the effect of clarifying an already recommended industry practice that midrail protection is installed before other trades access the decked area.

#### Subsection (l)(6)

Subsection (l)(6)(B), proposed as subsection (l)(7)(B), requires the use of approved personal fall protection devices when gathering and stacking temporary floor planks from the last panel. A proposed amendment changes the phrase "personal fall protection devices" with the phrase "personal fall protection system." This is an editorial change as the phrase "personal fall protection system" is defined in CSO, Section 1504 while the former phrase is not. The amendment will have no effect upon the regulated public.

#### Section 1710(m) Work and Traveling on the Skeleton Steel of Multistory Buildings or Structures.

##### Subsection (m)(1)

Existing subsection (m)(1) provides fall protection requirements for iron workers engaged in connecting work. The subsection requires the use of a personal fall protection system for connectors when the fall distance is greater than two stories or 30 feet, whichever is less. An amendment is proposed for subsection (m)(1)(A) to clarify that connecting activity includes not only connecting beams, but also includes connecting "other structural members." The amendment will have the effect of providing clarity to the regulation and consistency with the proposed definition of "connector" located in subsection (b).

Proposed subsection (m)(1)(B) adopts nearly verbatim language from the counterpart federal standard in 29 CFR 1926.760(b)(3). The provisions of this subsection require that connectors at heights over 15 and up to 30 feet above a lower level, be provided with a personal fall arrest system, positioning device system or fall restraint system and wear the equipment necessary to be able to be tied off; or be provided with other means of protection from fall hazards in accordance with subsection (m). The effect of this regulation will be to provide the connector the ability

to use fall protection between 15 and up to 30 feet should the connector believe it is safer or necessary to do so. An informational note is also proposed that states for fall protection requirements associated with work above reinforcing steel and similar projections, see Section 1712 of the Construction Safety Orders.

Proposed subsection (m)(1)(C) addresses requirements for the shinning of columns which is the common and accepted industry practice for connectors to vertically climb up or down columns to access workpoints. The effect of this regulation will be to provide the requirements to address and permit this practice for connecting work and provide an alternative to the use of ladders or other means of access when the fall distance does not exceed two stories or 30 feet, whichever is less.

##### Subsection (m)(3)

Existing subsection (m)(3) pertains to iron worker duties when traveling at the periphery or interior of a building. Subsection (m)(3)(A) states that when moving from work point to work point or releasing slings, iron workers shall be permitted to walk the top flange of a beam when the fall distance is not more than 30 feet or two stories, whichever is less. Subsection (m)(3)(B) provides that when the fall distance is greater than 30 feet, or two stories, whichever is less, iron workers shall coon or walk the bottom flange (inside flange or peripheral beams), or may walk the top flange if they are tied-off to catenary lines. Within the parenthetical phrase above (inside flange or peripheral beams) an editorial correction deletes the word "or" in lieu of the correct word "of."

Existing subsection (m)(3) permits iron workers (other than those performing connecting work) to walk the top flange of beams up to 30 feet, or two stories, whichever is less, without the use of fall protection. The federal counterpart fall protection standard for steel erection does not permit iron workers, other than connectors, to walk the top flange of beams above 15 feet in height without the use of fall protection. Therefore, amendments are proposed for subsection (m)(3)(A) and (B) that will have the effect of requiring that iron workers (other than those performing connecting work) be tied-off to catenary lines or use other fall protection when walking the top flange of beams if the fall distance is greater than 15 feet.

#### Section 1710(n) Controlled Decking Zone (CDZ).

Subsection (n) contains the requirements for the employer option to establish a Controlled Decking Zone (CDZ). A CDZ is an area established specifically for the initial placement and securing of metal decking where access to the area is restricted and work may take place without the use of a personal fall protection system for leading edge workers between 15 and 30 feet above a lower level.

Many of the requirements for establishing a CDZ are verbatim or similar to the federal counterpart standard in 29 CFR 1926.760(c). However, the proposed California CDZ standard has additional requirements that are not included in the federal standard for workers in a CDZ where conventional fall protection is not used. For example, when implementing a CDZ, the federal standard does not require the employer to determine that the use of a personal fall protection system is impractical or creates a greater hazard [See proposed subsection (n)(1)]. Further, subsections (n)(2) through (n)(5) contain requirements such as supervision of the CDZ by a competent person, documentation of the reasons why conventional fall protection is infeasible or creates a greater hazard and provisions for the use of a safety monitoring system when a CDZ is implemented.

The CDZ would address limited situations where it is problematic or infeasible on metal decked areas such as certain roofs where there is insufficient or no overhead anchorage points for proper set up of fall protection systems for workers. The effect of proposed subsection (n) would be that if an employer establishes a CDZ that conforms to the requirements of subsection (n) and affected personnel are trained pursuant to subsection (q)(3)(C), employees authorized to work in the CDZ could do so without the use of a fall protection system. Employers would establish an administrative program to implement the requirement of proposed subsection (n) if they choose to implement a CDZ.

#### Section 1710(o) Custody of guardrail systems.

Existing subsection (n), which is proposed as subsection (o), addresses the need to ensure that fall protection (meaning wire rope or other guardrail protection) left by the steel erector for use by other trades is maintained after steel erectors have completed their work. The existing regulation requires that fall protection provided by the steel erector remain in the area where the steel erection activity has been completed, to be used by other trades, only if the controlling contractor has: 1) directed the steel erector to leave the fall protection in place; and 2) has inspected and accepted control and responsibility for the fall protection prior to use.

It is clear in the federal OSHA explanation of its counterpart standard, that this regulation is intended to apply to wire rope or other guardrail systems left at the job site by the steel erector. Therefore, an amendment is proposed for clarity to delete the phrase "fall protection" and replace it with "wire rope or other guardrail protection." The proposed amendment will have no effect upon the regulated public other than to add clarity to the regulation.

#### Section 1710(q) Training.

When federal OSHA promulgated its Final Rule for structural steel erection in 29 CFR, Subpart R, federal OSHA recognized the need for a separate training section to address many of the new requirements of the standard such as the use of personal fall protection equipment and special procedures for multiple lift rigging, decking activities in a controlled decking zone, and connecting work. With the assistance of the advisory committee members convened to discuss proposed revisions to California's regulations in Title 8, it was determined that California should adopt similar training provisions for steel erection activities to supplement the general training requirements in CSO Section 1509 "Injury and Illness Prevention Program (IIPP)."

Proposed subsection (q) will provide consistency with the federal counterpart training requirements including some modifications such as expanding the training requirements for multiple lift rigging procedures. The effect of adding the training procedures in subsection (q) will be that employers will need to establish an administrative program that supplements their Section 1509 IIPP program to ensure that workers involved in structural steel erection have been properly trained in the hazards specific to their work assignments.

#### Appendix C to Section 1710—Guidelines for Establishing the Components of a Site-specific Erection Plan: Non-mandatory Guidelines for Complying with Section 1710(c)(5).

In subsection (c)(5), it is proposed to adopt provisions of the "site-specific erection plan" consistent with the federal counterpart standard contained in 29 CFR 1926.752(e). Therefore, it is also proposed to adopt the non-mandatory guidelines in new Appendix C to Section 1710 for complying with the provisions of the site-specific erection plan. Appendix C is non-mandatory and will have the effect of providing employers assistance and information for compliance with the provisions of Section 1710(c)(5).

#### **COST ESTIMATES OF PROPOSED ACTION**

##### Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

##### Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

##### Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide

adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal adds language in Section 1710(m)(1)(C) to address a work practice for connectors to access workpoints. This work practice for connectors is referred to as the “shinning of columns” and is considered an existing industry practice by steel erectors in California.

The proposal also provides the employer the option in Section 1710(n) to use controlled decking zones as a method to address fall hazards between 15 and 30 feet for leading edge decking work. Further, in subsection (d)(2) the proposal permits employers the option to perform multiple lift rigging (lifting up to five structural members) in one lift, which may reduce the time necessary for skeletal steel erection of buildings. Other amendments are also of a clarifying and technical nature with no adverse economic impact affecting businesses anticipated.

**Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the State is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing

services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, these regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

**EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses.

**ASSESSMENT**

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A description of the proposed changes are as follows:

**2. TITLE 8: ELEVATOR SAFETY ORDERS**

Chapter 4, Subchapter 6

New Article 5.1

New Section 3005 7

**Reporting Accidents Involving Listed Devices**

**INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

Existing Title 8, Elevator Safety Orders do not contain requirements for reporting or investigating accidents where maintenance, operation, or use of a device listed in Section 3000(c) results in injury or death to a member of the general public. The only accidents required to be reported are those involving serious injury or illness, or death of an employee,



pursuant to Section 342 of the Regulations of the Division of Occupational Safety and Health (Division). Reported employee-related accidents are subsequently categorized (by industry) and statistically recorded as worksite-related. When an employee-related accident involving a listed device requires an investigation, it is conducted by the Division and not the Division's Elevator Unit that oversees these devices. The Elevator Unit, however, will provide technical assistance when requested by the Division.

Carl J. White & Associates petitioned the Occupational Safety and Health Standards Board (Board), Petition File No. 408, to amend the Elevator Safety Orders to include accident reporting and investigation requirements which involve the riding public. The petitioner implies that accidents occurring on devices such as elevators/escalators would be investigated by the Division and, that by involving an impartial third party like the Division, accidents could be prevented and/or reduced. The petitioner believes that reporting these accidents would not burden the owners since they are already required to report accidents to their insurance company if the accident results in injuries that require a physician.

The Board granted the petition to the extent that the Division convene an advisory committee to consider the petitioner's recommendations. The Division attempted to convene a representative advisory committee, however, only four members attended, two of which were Division representatives. Those in attendance did, nevertheless, agree with the petitioner's assessment that owners of elevators/escalators are not required to notify the Division when accidents occur on elevators, escalators, moving walks, or similar public conveyances (devices). Elevator service companies occasionally inform the Division of accidents as a matter of courtesy. By contrast, it is industry practice that owners, or the owner's responsible agent, report those accidents that result in an injury to a passenger to the insurer. Such accident information is confidential and, therefore, not available to the Division.

Those attending the committee meeting also agreed that by requiring that accidents on these devices be reported, the Division could compile statistics that currently do not exist. The subsequent investigation of these accidents, when required, could reveal relevant data, such as equipment failure or mechanical malfunction that may have caused the accident. The information would also be useful to the Division when the Division evaluates the serviceability and mechanical condition of the device during the yearly inspection required for the owner to obtain the permit needed to operate the device. The information could also reveal

detrimental trends in the function and operation of the device that could be corrected to prevent such accidents from occurring.

This proposal recommends revisions to the Elevator Safety Orders that would require the owners of devices, such as elevators, escalators, moving walks, etc., listed in Subsection 3000(c), to report to the Division's Elevator Unit Headquarters in writing, those accidents which result in injury to any person(s) requiring medical treatment beyond ordinary first aid within five days of the accident. The proposal also requires that any accident resulting in serious injury or death be reported immediately via telephone to the Division's Elevator Unit Headquarters. The proposal further requires the owners of devices to preserve the equipment and site conditions for investigation by the Division.

#### New Article 5.1. Accident Reports and Procedures

The proposal will establish new Article 5.1 entitled "Accidents Reports and Procedures" which will contain requirements for reporting accidents involving all those who maintain, operate, or use a device as listed in Section 3000(c) of the Elevator Safety Orders.

#### New Section 3005. Reporting Accidents Involving Listed Devices.

##### Subsection (a)

Proposed subsection (a) outlines the scope of the regulation, stating that the Article applies to all devices listed in Section 3000(c), and provides the definitions for the terms: "responsible agent", "immediately", "incident", and "serious injury" which are used throughout the Article. Subsection (a) is for information and clarity purposes only and will have no effect on the regulated public.

##### Subsection (b)

Proposed subsection (b) addresses the accident reporting requirements required of all listed device owners or their responsible agent. The proposal requires all accidents where maintenance, operation, or use of a listed device results in injury to any person(s) which requires medical treatment beyond ordinary first aid to be reported in writing within five days of the accident to the Elevator Unit Headquarters Office in Anaheim. Subsection (b)(1) requires all serious injuries or deaths to be reported immediately via telephone to the Elevator Unit Headquarters Office in Anaheim. The proposal will have the effect of requiring device owners or their responsible agent to report to the Elevator Unit Headquarters Office, those accidents which require medical treatment beyond ordinary first aid.



Subsection (c)

Proposed subsection (c) addresses the requirements regarding the preservation of all equipment and site conditions for investigation by the Division for those accidents resulting in serious injury or death as a result of the maintenance, operation, or use of a listed device. Subsection (c)(1) states that upon receiving a report of an accident from an owner/responsible agent, the Division shall determine whether further preservation of the equipment or site conditions is necessary and shall inform the owner/responsible agent of its determination. Subsection (c)(2) adds that if the Division determines that continued preservation is necessary, the Division shall make a reasonable effort to initiate the accident investigation within 24 hours of receipt of the report from the owner/responsible agent. And finally, subsection (c)(3) states that upon initiating the accident investigation, the Division shall provide the owner/responsible agent with instructions on how long the equipment or site conditions shall continue to be preserved. The proposal will have the effect of ensuring that equipment and site conditions are preserved for investigation by the Division when accidents resulting in serious injury or death occur.

Subsection (d)

Proposed subsection (d) requires any state, county, or local fire or law enforcement agency responding to an accident involving a listed device where the accident results in a serious injury or death, to immediately notify the Elevator Unit Headquarters Office in Anaheim. The proposal will have the effect of ensuring that the Elevator Unit Headquarters Office in Anaheim is immediately notified of any accident involving a listed device that results in serious injury or death.

Subsection (e)

Proposed subsection (e) outlines the information required in all accident reports, whether phoned-in or submitted in writing. This information, if available, is to include: the date, time and location of the accident; the name, address and phone number of the owner of the device; the name and phone number of the person reporting the accident; the names, addresses and phone numbers of all persons involved in the accident; the names, addresses and phone numbers of all witnesses and the contact person at the accident site; a description of the injury(ies) and treatment provided to the injured party(ies) involved in the accident; and a detailed description of the accident. The proposal will have the effect of ensuring that all necessary information pertaining to an accident involving a listed device is reported.

Subsection (f)

Proposed subsection (f) requires all Incidents, as defined in proposed subsection (a), to be documented to include a description of the incident and the date on which the incident occurred, and that this documentation be kept in the elevator machine room or similar area adjacent to the device for review by the Division during the Division's annual inspection of the device. The proposal will have the effect of ensuring that any event, failure, or malfunction of a listed device is recorded and tracked and used for maintenance and inspection purposes so as to prevent any serious accidents from occurring.

**FINDING OF NECESSITY FOR  
REPORT REQUIREMENT**

The Board finds that it is necessary for the health, safety and welfare of the people of the state that this regulation's reporting requirements apply to business. The reporting requirement for accidents that occur on devices such as elevators, escalators, moving walks, etc., which result in injury or death to the general public, serves to inform the Elevator Unit within the Division of Occupational Safety and Health of such accidents. The Elevator Unit subsequently responds by conducting an investigation of the accident, i.e., equipment and site inspection, interviewing witnesses, etc., to determine the cause. The findings of the investigation will be evaluated and used to prevent similar accidents and further injury to the people of the state. Currently, no regulation requires that accidents on those devices resulting in injury or death to the general public be reported to the Division or any other state agency.

**COST ESTIMATES OF PROPOSED ACTION**

**Cost or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action. The Division does not charge state agencies for services performed on elevators, escalators, moving walks, etc.

**Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

**Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. It is anticipated that the cost impact for the owners of these devices to comply with this proposal will be minimal. Accidents on devices covered by this proposal are

infrequent, based on the Division's past experience and on informal information relayed to the Division by elevator service companies. However, when an accident involving serious injury or death is reported pursuant to this proposal, the owner of the device will be charged \$110.00 per hour while Division staff investigates the accident. The hourly fee is identical to the current fee charged to the device owner by the Division to conduct the yearly inspection associated with the permit to operate the device, pursuant to Section 344.30 of the Regulations of the Division of Occupational Safety and Health.

**Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. See "Impact on Businesses" above.

**Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

**Other Nondiscretionary Costs or Saving Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed regulations do not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

**EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses.

**ASSESSMENT**

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**3. TITLE 8: ELEVATOR SAFETY ORDERS**

Chapter 4, Subchapter 6  
Article 7, Section 3016  
Article 20, Section 3120.6  
Article 22, Section 3122.0  
**Elevator Pits**

**INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

Petition File No. 411 was submitted to the Occupational Safety and Health Standards Board (Board) requesting meetings be conducted with the plumbing industry to consider amendments to Section 3120.6. The Petitioner stated that sump pumps in the elevator pit are prohibited according to the American Society of Mechanical Engineers (ASME) A17.1 Main Committee interpretation of Rule 106.1(b)(3), which is incorporated by reference in Section 3120.6. The intent of Rule 106.1(b)(3) is to provide a drainage system to remove water that may accumulate accidentally on the elevator pit floor. It is also the intent that the drain system be permanent and that it operate without human intervention, according to interpreta-

tions of the ASME. Operation without human intervention implies that the sump pump should activate automatically, however, human intervention in the elevator pit is necessary with sump pumps to monitor and/or activate the pumps and to provide routine maintenance and repair. The Board granted the petition to the extent that the Division of Occupational Safety and Health (Division) convene a representative advisory committee to consider the Petitioner's concern.

The Division convened the advisory committee and invited the Petitioner to attend pursuant to the Board's Petition Decision. The committee members agreed with the Petitioner's assertion that using sump pumps for drainage of the elevator pit does not comply with the intent of Rule 106.1(b)(3) since sump pumps require human intervention.

This proposal deletes the reference to Rule 106.1(b)(3), which specifies that drains or sumps be provided in elevator pits of electric elevators. In lieu of the drainage requirements specified in Rule 106.1(b)(3), the proposal amends Section 3120.6 to permit the installation of different water removal systems in the elevator pit and to allow for human intervention occasionally should the water removal system fail. However, human intervention is not considered an integral water removal system. The proposal complies with the intent of Rule 106.1(b)(3) since the water removal system will provide drainage in the elevator pit floor. A similar amendment to Section 3122.0 is proposed for hydraulic elevators.

The proposal also adds Section 3120.6(d), which specifies that water accumulations shall be removed or pumped from the pit. The intent of Section 3120.6(d) is to ensure that water is not allowed to accumulate in elevator pits. This requirement also is proposed for hydraulic elevators in Section 3122.0.

The proposal also amends Section 3120.6(b), which contains a list of subsections from Section 3016 that owners of elevators installed after October 25, 1998 must comply with. The proposal adds Section 3016(c) to the list of subsections contained in Section 3120.6. Section 3016(c) requires that elevator owners install guards between adjacent pits on electric elevators installed on or before October 25, 1998. This requirement was inadvertently omitted from the new Elevator Safety Orders, which became effective on October 25, 1998. Even though the requirement was not codified for elevators installed after October 25, 1998, elevator contractors/installers continued to provide these guards on these elevators because of the requirement contained in Section 3016(c) for older installations.

This proposal contains editorial and formatting revisions. These non-substantive revisions are not all discussed in this informative digest. However, these proposed revisions are clearly indicated in the

regulatory text in underline and strikeout format. Please note, due to the passage of Assembly Bill 3000 (Stats. 2002, c. 1124), which was signed by the Governor and filed with the Secretary of State on September 30, 2002, the building standard requirements contained in the Health and Safety Code Section 18943(b) and in Labor Code Sections 142.3 and 142.6 no longer apply to the Occupational Safety and Health Standards Board. Consequently, all Title 24 Section references and the reference to Health and Safety Code Section 18943(b) in the reference citations contained in this rulemaking are proposed for deletion and are included in these non-substantive revisions.

In addition to these non-substantive revisions, the following actions are proposed:

#### Section 3016. Pits for Elevators.

##### Subsection (b) Design and Construction of Pits.

##### Subsection (b)(6)

Existing subsection (b)(6) indicates where the pumping equipment provided by the owner shall be located on electric elevators installed prior to October 25, 1998.

The proposal requires owners of existing electric elevators installed prior to October 25, 1998 to ensure an authorized person from an elevator company that is currently licensed by the State of California Contractors License Board is present if it is necessary to enter the pit to remove accidental water accumulations.

The effect of the proposal is that no persons may enter the pit to remove water accumulation unless an authorized person is present.

##### Subsection (b)(7)

The proposal allows the owners of electric elevators to provide a water removal system in the elevator pit on elevators installed prior to October 25, 1998. The water removal system, if provided, shall comply with Section 3120.6(c).

The proposal provides owners of electric elevators the option to provide a water removal system that complies with Section 3120.6(c) in elevators installed prior to October 25, 1998.

#### Section 3120.6. Pits

##### Subsection (a)

The existing subsection, without a letter designation, requires the owners of electric elevators to provide elevator pits that comply with section 106 of ASME A17.1-1996. Within section 106 is Rule 106.1(b)(3), which specifies that drains or sumps be provided in elevator pits.

The proposal will eliminate the need to comply with Rule 106.1(b)(3) of section 106 of ASME A17.1-1996.

The owners of electric elevators will be allowed to provide other water removal systems in lieu of providing drainage specified in Rule 106.1(b)(3) to deal with water accumulations in the elevator pit floor. The water removal system, when provided, shall comply with proposed Section 3120.6(c).

#### Subsection (b)

Existing subsection (a) requires the owners of electric elevators to comply with the pit requirements specified in Sections 3016(a), 3016(d)(3), 3016(d)(4), 3016(d)(5), and 3016(h).

The proposal will add Section 3016(c) to the list of sections that owners of electric elevators must comply with. Section 3016(c) requires owners to provide enclosures of a certain height between pits in adjacent hoistways.

The reference to Section 3016(c), which applies to elevators installed prior to October 25, 1998, was inadvertently omitted from Section 3120.6 when the new Elevator Safety Orders were drafted for elevators installed after October 25, 1998. Although the requirement was not codified in Section 3120.6, elevator contractors/installers continued to provide the guards on elevators installed after October 25, 1998.

#### Subsection (c)

In lieu of complying with ASME A17.1-1996, Rule 106.1(b)(3), the proposal allows the owners of electric elevators to provide a water removal system such as a sump pump, suction drain, or gravity drain to remove water accumulations from the pit floor. The water removal equipment is not to be located in the elevator pit, hoistway, or machine room. The piping related to the water removal system must be located outside the pit and machine room except that the piping extending from the pit floor to the lowest landing may be installed inside the hoistway. The water removal system is not to be connected directly to a sewer. If a drain in the pit is provided as the water removal system, the drain shall be designed so the water cannot enter the pit through the drain; and the drain shall be in the sump if a sump is provided.

The proposal permits owners of electric elevators to provide a permanent water removal system comprised of various drainage methods. The equipment associated with the water removal system is located outside the pit, which will abolish the need for personnel not familiar with elevator operations to enter the elevator pit to maintain drainage equipment or to remove water accumulations.

#### Subsection (d)

The proposal requires the owners of electric elevators to ensure that when human intervention is needed to remove accidental water accumulation from the pit floor it is done in the presence of an authorized person from an elevator company that is currently licensed by the State of California Contractors License Board.

The proposal provides a procedure should human intervention be necessary to remove water accumulations from the pit if, on occasion, the water does not drain through the water removal system.

#### Subsection (e)

The proposal allows owners of electric elevators installed after October 25, 1998 to provide a water removal system consistent with Section 3120.6(c).

The proposal provides the option to owners of electric elevators to retrofit electric elevators with a water removal system as specified in Section 3120.6(c).

#### Note

The note informs the owners of electric elevators that discharge from the water removal system may be subject to the local authority having jurisdiction.

The note emphasizes that the storage or removal from the site of discharge from the elevator pit is not within the scope of Elevator Safety Orders. The issue arises occasionally between the building owners and the local authority having jurisdiction.

#### Section 3122.0. Hoistway, Hoistway Enclosures, and Related Construction.

##### Subsection (d)

Existing Section 3122.0(d) requires owners of hydraulic elevators to comply with Section 3120.6(a) with respect to pit requirements. Section 3120.6(a) in turn references Section 3016 for requirements on design and construction of elevator pits for electric elevators.

The proposal will require owners of hydraulic elevators to comply with the same requirements specified in Section 3120.6 for electric elevators with respect to elevator pits. This permits owners of hydraulic elevators to provide the same water removal systems that are allowed for electric elevators specified in proposed Section 3120.6(c). The proposal also requires owners of hydraulic elevators to comply with proposed Section 3120.6(d) with respect to removing water accumulations from the pit.



COST ESTIMATES OF PROPOSED ACTION

**Cost or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action.

**Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

**Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**Cost Impact on Private Persons or Businesses**

Owners of elevators will not incur a new cost to comply with this proposal since elevator owners are already required to maintain the pit floor clear of water accumulations. This proposal merely provides methods that owners may use to prevent water accumulations. It is noted that water accumulations in the pit are accidental and infrequent occurrences. Potential recurrent water accumulations from ground water seepage is not likely because the pit is designed to prevent water infiltration, pursuant to section 1206.2a of ASME A17.1-1996. Therefore, the Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

**Other Nondiscretionary Costs or Saving Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a

"new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed regulations do not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The above proposals do not contain building standards as defined by Health and Safety Code Section 18909.

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Standard

Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than January 10, 2003. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on January 16, 2003 will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@hq.dir.ca.gov](mailto:oshsb@hq.dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to John D. MacLeod, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

## **TITLE 10. DEPARTMENT OF INSURANCE**

### **NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING**

**November 13, 2002  
RH02022283**

#### **SUBJECT OF PROPOSED RULEMAKING**

The Insurance Commissioner proposes to adopt the regulations described below after considering comments from the public. The Commissioner proposes to amend Title 10, Chapter 5, to add Subchapter 10, Article 1, with four new provisions, enumerated sections 2700, 2700.1, 2701 and 2702. The proposed amendments to Title 10 regulations establish the governing procedure for those adjudicative hearings conducted by an administrative law judge employed by the Department of Insurance that are not governed by more precisely targeted regulations or are not made subject by statute to the provisions of Chapter 5 of the Government Code.

#### **PUBLIC HEARING**

A public hearing has been scheduled in connection with this proposed action. A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, regarding these proposed amendments to regulations. The hearing will be held as follows:

**Date and Time: January 21, 2003 at 10:00 am**

**Location: Department of Insurance  
Hearing Room  
45 Fremont Street, 22nd Floor  
San Francisco, CA 94105**

The hearing will continue on the date noted until all testimony has been completed or 4:00 p.m., whichever is earlier. However, if no speakers are signed up by 10:00 a.m., the hearing will be adjourned.

**No hearing in Los Angeles is currently planned.** However, upon the specific request of an interested person received by January 3, 2003, an additional hearing will be held on January 22, 2003 at 9:00 a.m. in the Department of Insurance Hearing Room on the main floor of the Ronald Reagan State Building at 300 South Spring Street.

#### **ACCESS TO HEARING ROOMS**

The facilities to be used for the public hearings are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person listed below for these hearings in order to make special arrangements, if necessary.

## AUTHORITY AND REFERENCE

The Commissioner proposes to adopt these regulations pursuant to the authority granted by Government Code section 11400.20. The proposed regulations will implement, interpret and make specific to the Department of Insurance the provisions of Government Code section 11400.20. Prospectively, it will also make specific the reference to administrative hearings found in Insurance Code section 21.5 (effective January 1, 2003).

## PRESENTATION OF WRITTEN COMMENTS; CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at 5:00 p.m. on January 17, 2003. Please direct all written comments to the following contact person:

Andrea Biren, Chief Administrative Law Judge  
California Department of Insurance  
45 Fremont Street, 22nd Floor  
San Francisco, CA 94105  
Telephone: (415) 538- 4246

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. If she is unavailable, inquiries may be addressed to the following backup contact person:

George Teekell, Staff Counsel  
California Department of Insurance  
45 Fremont Street, 21st Floor  
San Francisco, CA 94105  
Telephone: (415) 538-4390

## DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact person at the address listed above, no later than 5:00 p.m. on January 17, 2003. Any written materials received after that time will not be considered.

## COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: BirenA@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Andrea Biren and sent to the following facsimile number: (415) 904-5854.

**Comments sent to other e-mail addresses or other facsimile numbers, or otherwise not transmitted in accordance with the above instructions, will not be accepted. Comments sent by email or facsimile are subject to the deadline set forth above for written comments.**

## ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Chapter 5, Subchapter 4.5, in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address in order to inquire about the appropriate procedures:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, 17th Floor  
Sacramento, CA 95814  
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person listed above. Please contact the Office of the Public Advisor for further information.

## INFORMATIVE DIGEST

### SUMMARY OF EXISTING LAW AND POLICY STATEMENT OVERVIEW

As part of the revision of the Administrative Procedure Act (APA) <sup>1</sup> in 1997, the Legislature gave each agency subject to the APA <sup>2</sup> the discretion to adopt regulations governing adjudications <sup>3</sup> under either Chapter 4.5 (Administrative Adjudication: General Provisions) or Chapter 5 (Administrative Adjudication: Formal Hearing) of the APA. The Department of Insurance has in place such regulations regarding Proposition 103 rate hearings, and it has regulations regarding workers' compensation insurance rate hearings. But it does not have regulations regarding many other types of hearings, including noncompliance hearings, cease and desist hearings, and viatical settlement hearings.

Under the APA's "Administrative Adjudication Bill of Rights (Gov't. Code § 11425.10)," which is in Chapter 4.5 of the APA, the Department of Insurance "shall make available to the person to which the agency action is directed a copy of the governing

<sup>1</sup> Government Code section 11370 et seq. constitutes the administrative adjudication portion of the Administrative Procedure Act.

<sup>2</sup> The Department of Insurance is subject to the APA. See Gov't Code § 11410.20.

<sup>3</sup> An "adjudicative proceeding" is an evidentiary hearing for determination of facts pursuant to which an agency formulates and issues a decision. Gov't. Code § 11405.20. It is not informal factfinding or a decision to initiate a proceeding before the agency, even if the decision to initiate is in response to an application for an agency decision.



procedure, including a statement whether Chapter 5 (commencing with Section 11500) is applicable to the proceeding.”

These regulations are necessary in order to clarify the general governing procedure for Department of Insurance adjudications that do not already have specific procedural regulations or that are not required by statute to be conducted pursuant to Chapter 5 of the APA. These regulations will avoid confusion and unnecessary argument about proper procedure in a given adjudication; however, the promulgation of these regulations will not actually change current procedure. While clarifying that the formal procedures of the APA’s Chapter 5 are not adopted, these regulations expand upon the Administrative Adjudication Bill of Rights by explicitly allowing the use of live witness testimony and cross-examination, subject to the reasonable control of the administrative law judge regarding the order and manner of presentation of witnesses, and limitations on length and repetitiveness of testimony. Additionally, these regulations codify the current practice whereby the presiding officer exercises discretion in determining the manner and use of and scheduling for pleadings, motions, intervention, discovery, rebuttal, briefs and other procedures. A copy of these regulations would henceforth be attached to the inception document in any case that does not have another, more precisely targeted governing procedure.

#### **EFFECT OF PROPOSED ACTION**

Overall, the proposed regulations will clarify what the general governing procedure for Department of Insurance adjudicative hearings is by codifying current practice. The first two sections set forth the authority and purpose for the regulations, while the second two sections establish the minimal procedural requirements for the hearing and the broader discretionary authority of the presiding judge. The effect will be to eliminate uncertainty and confusion as well as unnecessary argument concerning appropriate procedure and the authority of the presiding judge.

#### **MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

#### **COST OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING**

The Commissioner and the Department have determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any

local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

#### **ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE**

The Insurance Commissioner and the Department of Insurance have made an initial determination that the proposed regulations may have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The types of businesses that may be affected are insurers, and indirectly, independent agents and brokers. To the extent that the businesses did not expect their witnesses to undergo cross-examination and to the extent that the businesses did not expect that a presiding judge might allow discovery in a given case, for instance, these regulations may entail increased litigation costs for these businesses. There are no projected reporting, recordkeeping, and other compliance requirements that would result from this proposed action. The Department has not considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

#### **POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations. All procedures now required were previously required; the regulations only clarify what is required and what may be required.

#### **FINDING OF NECESSITY**

The Commissioner finds that it is necessary for the health, safety, or welfare of the people of the state that the regulations apply to businesses.



### EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

### IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

### ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

### IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed amendments may indirectly affect small businesses to the extent independent agents and brokers (as opposed to those who are insurance company employees) qualify as small businesses. It is conceivable though unlikely that if, as a result of the new regulations, cases take longer or shorter to come to a conclusion, business may be affected.

### COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

### TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Commissioner has prepared an initial statement of reasons that sets forth the reasons for the proposed action. The Commissioner also has available all the information upon which this proposed action is based and the express terms of the proposed action. Upon request, the initial statement of reasons and the proposed text of the regulations will be made available for inspection and copying. Requests for the initial statement of reasons and/or the text of the proposed regulations or questions regarding this proceeding should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information contained in

the rulemaking file, is available for inspection and copying **by prior appointment** at the Administrative Hearing Bureau, 45 Fremont Street, 22nd Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday. Written requests for the rulemaking file or questions regarding this proceeding should be directed to the contact persons listed above.

### FINAL STATEMENT OF REASONS

Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Requests for the final statement of reasons should be directed to the contact person listed above.

### AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

### WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find near the top of the page the major heading 'Protecting Consumers.' In this section, scroll down until you see the subheading 'BE INFORMED.' Click on the nearby 'Search for Proposed Regulations' link. When the 'Search or Browse for Documents for Proposed Regulations' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter "RH02022283" (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Government Code section number of a code section that the regulations implement (for instance, "11400.20"), or search by keyword ("governing regulation," for example). Then, click on the 'Submit' button to display links to the various filing documents.

To browse, click on the 'Browse All Regulations' button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the '**GOVERNING PROCEDURE FOR HEARINGS**' link, and click it. Links to the documents associated with these regulations will then be displayed.

### MODIFIED LANGUAGE

If the regulations adopted by the Department differ from those which have originally been made available but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior

to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

## **TITLE 14. FISH AND GAME COMMISSION**

### **NOTICE OF PROPOSED CHANGES IN REGULATIONS**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 2118 and 2120, Fish and Game Code and to implement, interpret or make specific sections 1002, 2116, 2118, 2118.2, 2118.4, 2119–2155, 3005.9 and 3005.92, Fish and Game Code, proposes to add new Section 1.92, and amend Section 671, Title 14, California Code of Regulations, to define the term “Transgenic”, and add transgenic aquatic animals to the list of live animals restricted for importation, transportation and possession

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Transgenic species are an example of biotechnological products that are produced under artificial conditions with the goal of enhancing yield or some other economically important biological trait. For example, some aquaculturists are interested in creating a transgenic fish product that grows faster than a natural fish. Transgenic manipulation involves incorporating genetic material (DNA) from one species into chromosomes of another. The resulting genetic makeup is unique and these biotechnologically constructed organisms have no genetic counterparts in natural systems. Because of their novel genetic structure, transgenic species should be considered “non-indigenous”, and potentially detrimental to native species.

To make clear, and explicit, the authority to allow or deny use of transgenic fish species, the Department recommends that transgenic fish be added, as a general category, to the Commission’s list of restricted species in Section 671, Title 14, CCR. The Department has already drafted changes to the form used for live fish importation. The change will require applicants to disclose the transgenic nature of the fish applied for.

The definition of transgenic that is to be used in the context of these regulations is being developed by interested persons from the Department, academia, legislature representatives, the aquaculture industry, and other interested parties.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Monterey

Beach Resort Hotel, 2600 Sand Dunes Drive and Highway 1, Monterey, California on Friday, December 6, 2002 at 8:30 a.m., or as soon thereafter as the matter may be heard

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Los Angeles/San Pedro (in a specific location to be determined following the December 6, 2002 meeting in Monterey), February 7, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before January 15, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov), but must be received no later than February 7, 2003, at the hearing in Los Angeles/San Pedro, CA. E-mail comments must include the true name and mailing address of the commenter.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Jon D. Snellstrom at the preceding address or phone number. Dr. Ed Pert, Chief, Fisheries Program Branch, Department of Fish and Game, phone (916) 445-3616, 1812 Ninth Street, Sacramento, CA 95814, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

### **AVAILABILITY OF MODIFIED TEXT**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

## IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businessmen to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed change will provide for continued research and development of transgenic aquatic organisms under safeguards appropriate to protect the wild-life resources of the State.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on Private Persons: The agency is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

## EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

## CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## TITLE 15. BOARD OF CORRECTIONS

### NOTICE OF PROPOSED CHANGES

#### **REGARDING TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 5, CALIFORNIA CODE OF REGULATIONS (KNOWN AS THE MINIMUM STANDARDS FOR LOCAL JUVENILE FACILITIES, AND TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 4, CALIFORNIA CODE OF REGULATIONS, (KNOWN AS THE MINIMUM STANDARDS FOR LOCAL ADULT DETENTION FACILITIES)**

Pursuant to Welfare and Institutions Code Sections 207.1, 210, 210.2, and 885, and Penal Code Section 6030, the State Board of Corrections (BOC) hereby gives notice of the proposed regulatory actions described in this public notice. It is the intent of the BOC to amend, adopt, or repeal regulations contained in Title 15, Division 1, Chapter 1, Subchapter 5, California Code of Regulations (known as the *Minimum Standards for Local Juvenile Facilities*), and Title 15, Division 1, Chapter 1, Subchapter 4, California Code of Regulations (known as the *Minimum Standards for Local Adult Detention Facilities*).

### PUBLIC COMMENT PERIOD

December 2, 2002 at 1:00 p.m.  
Santa Ana Police Department  
Community Room (Room M-97)  
60 Civic Center Plaza  
Santa Ana, CA 92702

January 13, 2003 at 1:00 p.m.  
Board of Corrections  
600 Bercut Drive  
Sacramento, CA 95814

At the public hearing, the Board will accept comments or proposals from interested persons relevant to the proposed *Minimum Standards for Local Juvenile Facilities* and/or the *Minimum Standards for Local Adult Detention Facilities*. The meeting facilities are accessible to the physically handicapped, and the public hearing will remain open as long as persons in attendance are presenting testimony.

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the State Board of Corrections from November 29, 2002 until 5:00 p.m. on January 13, 2003. This notice, the proposed regulatory changes to Title 15, "Informative Digest", and the "Initial Statement of Reasons", can be reviewed at the Board of Corrections' website ([www.bdcorr.ca.gov](http://www.bdcorr.ca.gov)). Written comments can ad-



dressed to the below listed BOC representatives. For those persons, who do not have access to the Internet, please submit a written request to:

Barbara Baker, Field Representative  
600 Bercut Drive  
Sacramento, CA 95814  
(916) 323-8620  
[bbaker@bdcorr.ca.gov](mailto:bbaker@bdcorr.ca.gov)

Bob Takeshta, Field Representative  
600 Bercut Drive  
Sacramento, CA 95814  
(916) 322-8346  
[btakeshta@bdcorr.ca.gov](mailto:btakeshta@bdcorr.ca.gov)

#### POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public hearing, the Board of Corrections may adopt the regulations as proposed, or with non-substantial, or grammatical modifications. The BOC may also adopt the proposed regulations with clarifying language, as long as the regulations are sufficiently related to the originally proposed text. If modifications are made, with the exception of non-substantive technical or grammatical changes, the full text of any modified proposal will be available to all persons who testify or submit written comments during the public comment period, and all persons who request notification, for at least 15 days prior to the date on which the BOC amends, adopts, or repeals regulations. Please address your comments to the BOC representatives listed.

#### AUTHORITY AND REFERENCE

The Board of Corrections proposes to amend, adopt, or repeal these regulations pursuant to Welfare and Institutions Code Sections 207.1, 210, 210.2, and 885, and Penal Code Section 6030. The purpose of these regulations is to implement, interpret, and make specific the provisions of Chapter 12, Statutes of 1996 (AB 1397). The BOC is proposing this regulatory action based on the 1995 Budget Act, Chapter 303, Statutes of 1995.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Welfare and Institutions Code Section 210 states that the Board of Corrections (BOC) shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors. Section 210.2 states that the BOC shall adopt regulations establishing standards for law enforcement facilities which contain lockups for adults and which are used for the temporary secure detention of minors upon arrest under subdivision (d) of Section 207.1. Section 885 states the BOC shall adopt and prescribe the minimum standards of construction, operation,

programs of education and training, and qualifications of personnel for juvenile ranches, camps, or forest camps established under Section 881. Penal Code Section 6030 states the BOC shall establish minimum standards for local detention facilities and shall review such standards biennially and make any appropriate revisions.

The Board of Corrections proposes adoption, amendment, or repeal of the following Title 15 Minimum Standards for Local Juvenile Facilities, and Title 15, Minimum Standards for Local Adult Detention Facilities.

Title 15, Division 1,  
Chapter 1, Subchapter 5

#### ARTICLE 1. GENERAL INSTRUCTIONS

Section 1302—Definitions: This section is amended to add definitions for control room; exercise; 504 plan; individual education plan; new generation design; primary responsibility; recreation; and security glazing. Editorial changes are made to clarify and to reflect statutory language for the following definitions: developmentally disabled; health administrator; living area; mental health director; regional facility; and supervisory staff.

#### ARTICLE 2. APPLICATION OF STANDARDS INSPECTIONS

Section 1310—Applicability of Standards: This section is amended to clarify that all juvenile detention facilities utilize classification procedures. Editorial change to delete reference to minors in jails, minors in temporary custody in a law enforcement facility, and minor in court holding facilities in this regulation and to transfer Articles 13, 14, and 15 to Article 8, 9, and 10 of the *Minimum Standards for Local Adult Detention Facilities*.

Section 1313—County Inspection and Evaluation of Building and Grounds: This section is amended to add statutory references and requirements for local inspections.

Section 1314—Appeal: Editorial change to delete reference to jails in this regulation and to transfer Articles 13, 14, and 15 to Article 8, 9, and 10 of the *Minimum Standards for Local Adult Detention Facilities*.

#### ARTICLE 3. TRAINING, PERSONNEL, AND MANAGEMENT

Section 1320—Appointment and Qualifications: Editorial change to add statutory references.

Section 1321—Staffing: This section is amended to require that a staff member is present on the unit, at all times, when a minor or minor(s) is present. This revision further requires that each juvenile facility have a clearly identified person on duty at all time who



is responsible for all operations and activities and has completed the Juvenile Corrections Officer Core Course and 832 PC training. This revision also clarifies staffing ratios at Special Purpose Juvenile Halls. Editorial changes include clarifying gender related staffing requirements.

Section 1322—Child Supervision Staff Orientation and Training: This section is amended to state that prior to assuming any responsibilities, child supervision staff completes 40 hours of orientation training, including ethical responsibilities. Previously, guideline language addressed orientation training by recommending training topics, but facilities were not obligated to provide training in these areas. This section is further amended to add that prior to assuming “primary responsibility”, each child supervision staff member shall successfully complete CORE requirements, and prior to exercising the powers of a peace officer, child supervision staff shall successfully complete Penal Code 830 training.

Section 1324—Policy and Procedures Manual: This section is amended to require that support staff, contract employees, school and medical staff, program providers and volunteers receive orientation training, including safety and security issues.

Section 1325—Fire Safety Plan: Editorial changes to differentiate between an evacuation plan and documented fire drills.

Section 1327—Emergency Procedures: Editorial change to add fire to the facility specific policies and procedures for emergencies. This section is amended to add that all child supervision staff is provided with an annual review of emergency procedures.

Section 1328—Safety Checks: Editorial Change to rename Room Checks to Safety Checks to clarify the intent of the regulation.

Section 1341—Death and Serious Illness or Injury of a Minor While Detained: Editorial change to delete reference to jails in this regulation, and to transfer Articles 13, 14, and 15 to Articles 8, 9, and 10 of the *Minimum Standards for Local Adult Detention Facilities*.

#### ARTICLE 4. RECORDS AND PUBLIC INFORMATION

Section 1342—Population Accounting: This section is amended to address the requirement to submit population and profile survey reports to the Board of Corrections.

#### ARTICLE 5. CLASSIFICATION AND SEGREGATION

Section 1351—Release Procedures: Editorial change to provide clarity and consistency by replacing “medical” provider with “health care” provider.

Section 1354—Segregation: Editorial change to provide clarity by changing “direct visual monitor-

ing”, which is not defined in the definitions, to “direct visual observation”, which is defined in the regulations as requiring staff to personally see minors’ movement and/or skin on an intermittent basis.

Section 1355—Assessment and Plan: This section is amended to clarify the assessment process and makes it a requirement to provide an assessment and plan for all minors held more than 30 days, regardless of adjudication status.

Section 1357—Use of Force: This section is amended to clarify that training is required on all types of use of force.

Section 1358—Use of Physical Restraints: This section is amended to replace shift supervisor with designee will allow the facility manager to designate the appropriate staff person to approve a minor being placed into physical restraints. This section is also amended to reinforce the requirement to document the circumstances leading to the application of the restraints and to clarify observation documentation.

Section 1359—Safety Room Procedures: This section is amended to provide clarity and consistency with other regulations by requiring the approval of the facility manager or designee prior to a minor being placed in a safety room and for periodic evaluations by the facility manager or designee. Amendment to this section also clarifies documentation requirements.

#### ARTICLE 6. PROGRAMS AND ACTIVITIES

Section 1370—Education Program: This section is amended to require communication and coordination between education and probation staff. Editorial changes provide consistency with the California Code of Education rather than repeating the statute. Amendment to this section also requires that policies address expulsion and those minor’s that have continuing difficulty completing a school day. The Social Awareness Program has been deleted from this regulation and a new regulation has been created to address it.

Section 1371—Recreation and Exercise: This section is amended to separate recreation and exercise and to clarify the description of both.

Section 1377—Access to Legal Services: Editorial change to delete reference to jails in this regulation and to transfer Articles 13, 14, and 15 to Articles 8, 9, and 10 of the *Minimum Standards for Local Adult Detention Facilities*.

Section 1378—Social Awareness Program: This is a new regulation that addresses the Social Awareness Program that was removed from the Education Program regulation. The language remains the same with the additional requirement that the responsible agency perform an annual review of the programs.

## ARTICLE 8. HEALTH SERVICES

Section 1400—Responsibility for Health Care Services: Editorial change to add mental health director to be included when a system for health care in juvenile facilities is developed in juvenile facilities, especially when mental health services are provided.

Section 1407—Confidentiality: This section is amended to add that information in the minor's case file shall be shared with the health staff. An editorial change was made to delete reference to jails in this regulation to transfer Articles 13, 14, and 15 to Articles 8, 9, and 10 of the *Minimum Standards for Local Adult Detention Facilities*.

Section 1415—Health Education: Editorial change to delete reference to jails in this regulation, and to transfer Articles 13, 14, and 15 to Articles 8, 9, and 10 of the *Minimum Standards for Local Adult Detention Facilities*.

Section 1416—Reproductive Services: Editorial change to delete reference to jails in this regulation, and to transfer Articles 13, 14, and 15 to Articles 8, 9, and 10 of the *Minimum Standards for Local Adult Detention Facilities*.

Section 1430—Intake Health Screening: This section is amended to include the mental health director in establishing policies and procedures, in cooperation with the health administrator and the facility administrator.

Section 1432—Health Appraisals/Medical Examinations: Editorial change to delete reference to jails in this regulation, and to transfer Articles 13, 14, and 15 to Articles 8, 9, and 10 of the *Minimum Standards for Local Adult Detention Facilities*.

Section 1438—Pharmaceutical Management: This section is amended to require that child supervision staff must receive training by health care managers in procedures, documentation, and recognition of symptoms prior to being allowed to deliver prescribed medication to minors.

Section 1439—Psychotropic Medications: This section is amended to identify who can authorize psychotropic medication to be dispensed to a minor. The change is from parent/guardian or the court to legally authorized person or entity. This amendment also includes adding that assessment and diagnosis must support the administration of psychotropic medications.

## ARTICLE 9. FOOD

Section 1460—Frequency of Serving: This section is amended to comply with current minimum diet standards.

Section 1461—Minimum Diet: This section is amended to comply with food guide references citations. An editorial change is made to clarify requirements.

Section 1462—Therapeutic Diets: This section is amended to require that a therapeutic diet manual is available in both the medical unit and the food service office.

Section 1463—Menus: This section is amended to expand the requirement that meals be planned one month in advance to all facilities whether or not kitchen facilities are part of the facility.

Section 1464—Food Service Plan: Editorial change to rename the title of this regulation from Food Services Manager to Food Service Plan. The title change reflects the actual content of the regulation. This section is amended to require that the Food Service Plan in all facilities include all elements of the plan regardless of the ADP.

Section 1465—Food Handlers Education and Monitoring: This section is amended to clarify and broaden the scope of the training requirement to include supervisors.

Section 1467—Food Serving and Supervision: Editorial change to rename this regulation from Food Serving to Food Serving and Supervision. The change in the title more clearly describes the focus of this section. This section is amended to require that food shall be prepared and served only under adequate supervision.

## ARTICLE 10. CLOTHING AND PERSONAL HYGIENE

Section 1480—Standard Facility Clothing Issue: This section is amended to require that undergarments issued to minors must be "free of stains."

Section 1483—Clothing, Bedding and Linen Supply: This section is amended to require that in addition to having sufficient clothing, bedding, and linen, facilities must develop a process to ensure these articles are handled in a clean and sanitary manner at all times.

Section 1485—Issue of Personal Care Items: This section is amended to require that minors "be provided with" rather than "issued" certain personal care items.

Section 1487—Shaving: This section is amended to address that if minors are considered to be a danger to themselves or others, the shaving allowance may be suspended.

## ARTICLE 11 BEDDING AND LINENS

Section 1500—Standard Bedding and Linen Issue: This section is amended to clarify that mattresses must be in good repair and allows for a mattress-pillow combination.

Section 1501—Bedding and Linen Exchange: This section is amended to remove the requirement of linen to be "freshly" laundered for the scheduled exchange of bedding and linen.

Section 1502—Mattresses: This section is amended to allow mattresses to “conform to the size of the bed” rather than require the mattress to be a specific size.

### ARTICLE 13. MINORS IN JAILS

This Article was transferred to Article 8 of the *Minimum Standards for Local Adult Detention Facilities*.

### ARTICLE 14. MINORS IN TEMPORARY CUSTODY IN A LAW ENFORCEMENT FACILITY

This Article was transferred to Article 9 of the *Minimum Standards for Local Adult Detention Facilities*.

### ARTICLE 15. MINORS IN COURT HOLDING FACILITIES

This Article was transferred to Article 10 of the *Minimum Standards for Local Adult Detention Facilities*.

Section 1562—Training: This regulation is deleted because Title 15, Article 3, Section 1024 of the *Minimum Standards for Local Adult Detention Facilities* already addresses training requirements for court holding facilities.

Section 1565—Incident Reports: This regulation is deleted because Title 15, Article 3, Section 1044 of the *Minimum Standards for Local Adult Detention Facilities* already addresses incident reports for minors in court holding facilities.

Section 1567—Suicide Prevention Program: This regulation is deleted because Title 15, Article 3, Sections 1029 and 1219 of the *Minimum Standards for Local Adult Detention Facilities* already address suicide prevention programs for minors in court holding facilities.

## MINIMUM STANDARDS FOR LOCAL ADULT DETENTION FACILITIES

### Title 15, Division 1, Chapter 1, Subchapter 4

### ARTICLE 1. GENERAL INSTRUCTIONS

Section 1006—Definitions: This section is amended to Add definitions for contact, inmate worker, jail, law enforcement facility, lockup, non-secure custody, secure detention, supervision in a law enforcement facility, and temporary custody. These definitions were added as result of transferring Article 13 Minors in Jails, Article 14 Minors in Temporary Custody in a Law Enforcement Facility, and Article 15 Minors in Court Holding Facilities from the *Minimum Standards for Local Juvenile Facilities* to Article 8 Minors in Jails, Article 9, Minors in Temporary Custody in a Law Enforcement Facility and Article 10 Minors in Court Holding Facilities of the *Minimum Standards for Local Adult Detention Facilities*.

### ARTICLE 2. INSPECTION AND APPLICATION OF STANDARDS

Section 1010—Applicability of Standards: This section is amended to incorporate the transfer of Article 13, Minors in Jails; Article 14, Minors in Temporary Custody in a Law Enforcement Facility; and Article 15, Minors in Court Holding Facilities from the *Minimum Standards for Local Juvenile Facilities* to address *Minimum Standards for Local Detention Facilities*, whenever minors are held in adult facilities.

Section 1018.—Appeal for Adult Facilities Holding Minors: This regulation addresses the requirements for an appeal process to the Board of Corrections for those facilities holding minors. Adult facilities that hold minors have complied with Section 1314, Appeal, Minimum Standards for Juvenile Facilities, and this new regulation adopts regulation language from Section 1314.

### ARTICLE 4. RECORDS AND PUBLIC INFORMATION

Section 1046—Death of a Minor in an Adult Detention Facility: This regulation addresses operational procedures if a minor dies in custody in an adult facility. Adult facilities that hold minors have complied with Section 1341 Death and Serious Illness or Injury of a Minor While Detained, *Minimum Standards for Juvenile Facilities*. This new regulation adopts language from Section 1341 that addresses the Death of a Minor in an Adult Detention Facility, and Section 1047 will address Serious Illness or Injury of a Minor in an Adult Detention Facility.

Section 1047—Serious Illness or Injury of a Minor in an Adult Detention Facility: This section addresses procedures if a minor becomes seriously ill or is injured while in custody in an adult facility. Adult facilities that hold minors have complied with Section 1341 Death and Serious Illness or Injury of a Minor While Detained, *Minimum Standards for Juvenile Facilities*. This new regulation adopts language from Section 1341 that addresses Serious Illness or Injury of a Minor in an Adult Detention Facility.

### ARTICLE 8. MINORS IN JAILS

Section 1100—Purpose: This regulation was transferred from Article 13, Minors in Jails, Section 1520, Purpose, *Minimum Standards for Local Juvenile Facilities*, to Article 8, Minors in Jails, Section 1100, *Minimum Standards for Local Adult Detention Facilities*. This new regulation eliminates the reference to education programs, and it adopts education requirements for minors in jails (Section 1120, Education Programs for Minors in Jails).

Section 1101—Restrictions on Contact with Adult Prisoners: This regulation was transferred from Article 13, Minors in Jails, Section 1521, Restrictions on



Contact with Adult Prisoners, *Minimum Standards for Local Juvenile Facilities*, to Article 8, Minors in Jails, Section 1101, *Minimum Standards for Local Adult Detention Facilities*. This new regulation adds the terms “verbal, non-verbal, or visual” to communications to clarify restrictions on contact. This new regulation adopts language from Section 1521.

Section 1102—Classification: This regulation was transferred from Article 13, Minors in Jails, Section 1522, Classification, *Minimum Standards for Local Juvenile Facilities*, to Article 8, Section 1102, *Minimum Standards for Local Adult Detention Facilities*. This new regulation adopts language from Section 1522.

Section 1103—Release Procedures: This regulation was transferred from Article 13, Minors in Jails, Section 1523, Release Procedures, *Minimum Standards for Local Juvenile Facilities*, to Article 8, Minors in Jails, Section 1103, *Minimum Standards for Local Adult Detention Facilities*. This new regulation adopts language from Section 1523.

Section 1104—Supervision of Minors: This regulation was transferred from Article 13, Minors in Jails, Section 1524, Supervision of Minors, *Minimum Standards for Local Juvenile Facilities*, to Article 8, Minors in Jails, Section 1104, *Minimum Standards for Local Adult Detention Facilities*. This regulation has added the term “direct visual observation” and “safety checks”. This new regulation adopts language from Section 1524.

Section 1105—Recreation Programs: This regulation was transferred from Article 13, Minors in Jails, Section 1525, Recreation Programs, *Minimum Standards for Local Juvenile Facilities*, to Article 8, Minors in Jails, Section 1105, *Minimum Standards for Local Adult Detention Facilities*. This new regulation adopts language from Section 1525.

Section 1106—Disciplinary Procedures: This regulation was transferred from Article 13, Minors in Jails, Section 1527, Disciplinary Procedures, *Minimum Standards for Local Juvenile Facilities*, to Article 8, Minors in Jails, Section 1106, *Minimum Standards for Local Adult Detention Facilities*, and this new regulation adopts language from Section 1527.

Section 1120—Education Programs for Minors in Jails: This regulation addresses the requirements for providing education programs in jails. Reference to education program requirements were previously contained in Article 13, Minors in Jails, Section 1520 Purpose, *Minimum Standards for Local Juvenile Facilities*, and this new regulation adopts language from Section 1520.

Section 1121—Heath Education for Minors in Jails: This regulation addresses the responsibility of administrator to provide health education and disease prevention programs to minors in jail. Adult facilities

that hold minors have complied with Article 8, Health Services, Section 1415, Health Education, *Minimum Standards for Juvenile Facilities*, and this new regulation adopts language from Section 1415.

Section 1122—Reproductive Information and Services for Minors in Jails: This regulation addresses the health administrator’s responsibility to prove reproductive health services to minors in jails. Adult facilities that hold minors have complied with Article 8, Health Services, Section 1416, Reproductive Services, *Minimum Standards for Juvenile Facilities*, and this new regulation adopts language from Section 1416.

Section 1123—Health Appraisals/Medical Examinations for Minors in Jails: This regulation addresses the requirements for intake health information for minors in jails. Adult facilities that hold minors have complied with Article 8, Health Services, Section 1432, Health Appraisals/Medical Examinations, *Minimum Standards for Juvenile Facilities*, and this new regulation adopts language from Section 1432.

Section 1124—Prostheses and Orthopedic Devices for Minors in Jail: This regulation addresses the requirements for minors with prostheses and orthopedic devices in jail. Adult facilities that hold minors have complied with Article 8, Health Services, Section 1436, Prostheses and Orthopedic Devices, *Minimum Standards for Juvenile Facilities*, and this new regulation adopts language from Section 1436.

Section 1125—Psychotropic Medications for Minors in Jail: This regulation addresses the requirements for minors who are taking psychotropic medications in jail. Adult facilities that hold minors have complied with Article 8, Health Services, Section 1439, Psychotropic Medications, *Minimum Standards for Juvenile Facilities*, and this new regulation adopts language from Section 1439.

## ARTICLE 9. MINORS IN TEMPORARY CUSTODY IN A LAW ENFORCEMENT FACILITY

Section 1140—Purpose: This regulation was transferred from Article 14, Minors in Temporary Custody in Law Enforcement Facilities, Section 1540, Purpose, *Minimum Standards for Local Juvenile Facilities*, to Article 9, Section 1140 *Minimum Standards for Local Adult Detention Facilities*, and this new regulation adopts language from Section 1540.

Section 1141—Minors Arrested for Law Violations: This regulation was transferred from Article 14, Minors in Temporary Custody in Law Enforcement Facilities, Section 1541, Minors Arrested for Law Violations, *Minimum Standards for Local Juvenile Facilities*, to Article 9, Section 1141, *Minimum*



Standards for Local Adult Detention Facilities, and this new regulation adopts language from Section 1541.

Section 1142—Written Policies and Procedures: This regulation was transferred from Article 14, Minors in Temporary Custody in Law Enforcement Facilities, Section 1542, Purpose, *Minimum Standards for Local Juvenile Facilities*, to Article 9, Section 1142, *Minimum Standards for Local Adult Detention Facilities*, and this new regulation adopts language from Section 1542.

Section 1143—Care of Minors in Temporary Custody: This regulation was transferred from Article 14, Minors in Temporary Custody in Law Enforcement Facilities, Section 1543, Care of Minors in Temporary Custody, *Minimum Standards for Local Juvenile Facilities*, to Article 9, Section 1143, *Minimum Standards for Local Adult Detention Facilities*, and this new regulation adopts language from Section 1543.

Section 1144—Contact Between Minors and Adult Prisoners: This regulation was transferred from Article 14, Minors in Temporary Custody in Law Enforcement Facilities, Section 1544, Contact Between Minors and Adult Prisoners, *Minimum Standards for Juvenile Facilities*, to Article 9, Section 1144, *Minimum Standards for Local Adult Detention Facilities*. Editorial changes to this regulation clarify the specific requirements for contact between minors and adult prisoners. This new regulation adopts language from Section 1544.

Section 1145—Decision on Secure Detention: This regulation was transferred from Article 14, Minors in Temporary Custody in Law Enforcement Facilities, Section 1545 Decision on Secure Detention, *Minimum Standards for Local Juvenile Facilities*, to Article 9, Section 1145 *Minimum Standards for Local Adult Detention Facilities*, and this new regulation adopts language from Section 1545.

Section 1146—Conditions of Secure Detention: This regulation was transferred from Article 14, Minors in Temporary Custody in Law Enforcement Facilities, Section 1546, Conditions of Secure Detention and Non-Secure Custody, *Minimum Standards for Juvenile Facilities*, to Article 9, Section 1146, *Minimum Standards for Local Adult Detention Facilities*. Editorial changes were made to the title of the regulation to clarify focus of this regulation. This new regulation only adopts language from Section 1546 that addresses the issue of secure detention. Language in Section 1546 addressed “Conditions of Secure Detention and Non-Secure Detention”, and it also addressed the requirements for contact between minors and adult prisoners.

Section 1147—Supervision of Minors Held Inside a Locked Enclosure: This regulation was transferred from Article 14, Minors in Temporary Custody in Law Enforcement Facilities, Section 1547, Supervision of Minors Held Inside a Locked Enclosure, *Minimum Standards for Juvenile Facilities*, to Article 9, Section 1147 *Minimum Standards for Local Adult Detention Facilities*. Editorial changes include replacing the term “personal supervision with “safety checks”, and replacing the term “direct visual supervision” with “constant direct visual observation” in subsection (b) for consistency. This new regulation adopts language from Section 1547.

Section 1148—Supervision of Minors in Secure Detention Outside of a Locked Enclosure: This regulation was transferred from Article 14, Minors in Temporary Custody in Law Enforcement Facilities, Section 1548, Supervision of Minors in Secure Detention Outside of a Locked Enclosure, *Minimum Standards for Juvenile Facilities*, to Article 9, Section 1148, *Minimum Standards for Local Adult Detention Facilities*. This regulation adopts language from Section 1548, and it amends 30-minute checks to 60 minutes for staff efficiency.

Section 1149—Criteria for Non-Secure Custody: This regulation was transferred from Article 14, Minors in Temporary Custody in Law Enforcement Facilities, Section 1549, Criteria for Non-Secure Custody, *Minimum Standards for Local Juvenile Facilities*, to Article 9, Section 1149, *Minimum Standards for Local Adult Detention Facilities*, and this new regulation adopts language from Section 1549.

Section 1150—Supervision of Minors in Non-secure Custody: This regulation was transferred from Article 14, Minors in Temporary Custody in Law Enforcement Facilities, Section 1550, Supervision of Minors in Non-Secure Custody, *Minimum Standards for Juvenile Facilities*, to Article 9, Section 1150, *Minimum Standards for Local Adult Detention Facilities*. Editorial changes include replacing the term “personal visual supervision” with “constant direct visual observation” for consistency. This new regulation adopts language from Section 1550.

Section 1151—Intoxicated and Substance Abusing Minors in a Lockup: This regulation addresses the requirements for handling minors who are known to or suspected of ingesting a substance that could be hazardous to their health. Adult facilities that hold minors have complied with Article 8, Health Services, Section 1341, Intoxicated and Substance Abusing Minors, and this new regulation adopts language from Section 1341.

**ARTICLE 10. MINORS IN COURT  
HOLDING FACILITIES**

Section 1160—Purpose: This regulation was transferred from Article 15, Minors in Court Holding Facilities, Section 1560, Purpose, *Minimum Standards for Local Juvenile Facilities*, to Article 10, Section 1160, *Minimum Standards for Local Adult Detention Facilities*, and this new regulation adopts language from Section 1560.

Section 1161—Conditions of Detention: This regulation was transferred from Article 15, Minors in Court Holding Facilities, Section 1561, Conditions of Detention, *Minimum Standards for Local Juvenile Facilities*, to Article 10, Section 1161 *Minimum Standards for Local Adult Detention Facilities*, and this new regulation adopts language from Section 1561.

Section 1162—Supervision of Minors: This regulation was transferred from Article 15, Minors in Court Holding Facilities, Section 1562, Supervision of Minors, *Minimum Standards for Local Juvenile Facilities*, to Article 10, Section 1162, *Minimum Standards for Local Adult Detention Facilities*, and this new regulation adopts language from Section 1562.

Section 1163—Classification: This regulation was transferred from Article 15, Minors in Court Holding Facilities, Section 1564, Classification, *Minimum Standards for Local Juvenile Facilities*, to Article 10, Section 1163 *Minimum Standards for Local Adult Detention Facilities*, and this new regulation adopts language from Section 1564.

**ARTICLE 11. MEDICAL/MENTAL  
HEALTH SERVICES**

This Article has been renumbered to Article 11, Medical/Mental Health Services. All regulations beginning with Section 1200 through 1230 remains the same.

**ARTICLE 12. FOOD**

This Article has been renumbered to Article 12, Food. All regulations beginning with Section 1240 through 1248 remains the same.

**ARTICLE 13. INMATE CLOTHING AND  
PERSONAL HYGIENE**

This Article has been renumbered to Article 13, Inmate Clothing and Personal Hygiene. All regulations beginning with Section 1260 through 1267 remains the same.

**ARTICLE 14. BEDDING AND LINENS**

This Article has been renumbered to Article 14, Bedding and Linens. All regulations beginning with Section 1270 through 1272 remains the same.

**ARTICLE 15. FACILITY SANITATION  
AND SAFETY**

This Article has been renumbered to Article 15, Facility Sanitation and Safety. Regulation 1280 remains the same. There are no other changes.

**DISCLOSURE REGARDING THE  
PROPOSED ACTION**

*The Board has made the following initial determinations:*

**MANDATE ON LOCAL AGENCIES OR  
SCHOOL DISTRICTS**

None.

**ESTIMATE OF COST OR SAVINGS**

- A. Cost or savings to any state agency: No.
- B. Cost to any local agency or school district which must be reimbursed in accordance With Government Code Sections 17500 through 17630: No.
- C. Other nondiscretionary cost or savings imposed on local agencies: No.
- D. Cost or savings in federal funding to the state: No

**INITIAL DETERMINATION OF NO  
SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESSES**

The BOC has made an initial determination that the amendment/adoption/or repeal of these regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with business in other states.

**COST IMPACT ON REPRESENTATIVE PRIVATE  
PERSON OR BUSINESS**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS  
UPON JOBS AND BUSINESS EXPANSION,  
ELIMINATION OR CREATION**

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California

Significant effect on housing costs: None.

**SMALL BUSINESS DETERMINATION**

The Board has determined that the proposed regulations will have no effect on small businesses.

These proposed regulations affect the operations and programs for Local Juvenile Facilities and Local Adult Detention Facilities.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the agency or that has other wise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information, which the proposed regulations are based upon, including the proposed text of the regulations, informative digest, initial statement of reasons, and economic impact statement are contained in the rulemaking file. This file is available for public review by contacting the listed BOC representatives. The proposed regulatory changes to Title 15, the "Notice", and "Initial Statement of Reasons", can be accessed from the Board of Corrections' website: <http://www.bdcorr.ca.gov> Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by accessing the BOC website, or by submitting a written request to the listed BOC representatives.

#### BOC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

##### **Below Named BOC Representatives**

#### PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO TITLE 15 AND 24

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the *Minimum Standards For Local Juvenile Facilities* and/or *Minimum Standards For Local Adult Detention Facilities* should be addressed to:

Barbara Baker, Field Representative  
600 Bercut Drive  
Sacramento, CA 95814  
(916) 323-8620  
[bbaker@bdcorr.ca.gov](mailto:bbaker@bdcorr.ca.gov)

Bob Takeshta, Field Representative  
600 Bercut Drive  
Sacramento, CA 95814  
(916) 322-8346  
[btakeshta@bdcorr.ca.gov](mailto:btakeshta@bdcorr.ca.gov)

## TITLE 16. BOARD OF OCCUPATIONAL THERAPY

#### NOTICE OF PROPOSED CHANGES IN THE REGULATIONS

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed actions.

#### PUBLIC HEARING

The Board will hold a public hearing on January 14, 2003, beginning at 1:00 p.m., in the Board's office located at 444 North Third Street, Suite 410, Sacramento, California, 95814. The conference room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed actions described in the Informative Digest. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed actions to the Board, addressed to Jeff Hanson, 444 North Third Street, Suite 410, Sacramento, California, 95814, no later than 5:00 p.m. on January 14, 2003, or at the hearing. Written comments may also be sent to Jeff Hanson via electronic mail at [Jeff\\_Hanson@dca.ca.gov](mailto:Jeff_Hanson@dca.ca.gov) or faxed to (916) 445-6167.

#### CONTACT PERSONS

Inquiries including questions regarding the substance of the proposed regulatory actions may be directed to Jeff Hanson, 444 North Third Street, Suite 410, Sacramento, California, 95814, (916) 324-4353, FAX (916) 445-6167, or email [Jeff\\_Hanson@dca.ca.gov](mailto:Jeff_Hanson@dca.ca.gov). The back up person is Gretchen Kjose, (916) 322-3394 or email [Gretchen\\_Kjose@dca.ca.gov](mailto:Gretchen_Kjose@dca.ca.gov).

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2570.10, 2570.13 and 2570.20 of the Business and Professions Code, and to implement, interpret or make specific sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.10, and 2570.13 of the Business and Professions Code, the Board is considering adding to Division 39, Title 16, of the California Code of Regulations as follows:



**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

On January 1, 2001, Senate Bill 1046 (Murray, Chapter 697, Statutes of 2000) took effect, establishing the Board whose duties are to license occupational therapists, certify occupational therapy assistants and regulate the occupational therapy profession. This law gives the Board authority to adopt, by regulation, continued competency requirements as a condition of license renewal and requires the Board to adopt rules necessary to assure appropriate supervision of occupational therapy assistants, limited permit holders, students, and aides. The proposed regulatory actions are necessary to implement this legislation.

Section 4160: Existing law gives the Board authority to establish rules regarding continued competency requirements. This proposed regulation would define "professional development" as activities or programs engaged in to increase knowledge, skills and abilities. It would also define Level II students as those students completing the fieldwork portion of an entry-level academic degree program, supervision of whom would be considered a professional development activity.

Section 4161: This proposed regulation would require the occupational therapy practitioner to demonstrate continued competency by participating in professional development activities; would specify what constitutes a professional development activity; would identify the unit of measurement as a professional development unit (PDU); would require the practitioner to obtain 12 PDUs during the renewal period, six of which must be directly related to the delivery of occupational therapy services; and would provide that the continued competency requirements would not apply to the first renewal period following initial licensure.

Section 4162: This proposed regulation would specify the type of information to be provided to the Board by the occupational therapy practitioner at the time of renewal, would require the practitioner to maintain records on professional development activities for a period of four years following the renewal period, would provide that a maximum of 3 PDUs could be carried over to the next renewal period, and would specify that a practitioner unable to provide proof of having completed the continued competency requirements would be subject to citation and or administrative fine or other disciplinary action.

Section 4163: This proposed regulation would provide that, at the time of renewal, the occupational therapy practitioner could request an exemption from meeting the continued competency requirements if, during the renewal period, the practitioner was in another country for one year or longer, engaged in military or missionary service for one year or longer,

was mentally or physically incapacitated or was caring for a mentally or physically incapacitated family member for one year or longer during the renewal period.

Section 4180: Existing law requires the Board to develop regulations regarding supervision requirements for occupational therapy assistants, limited permit holders, students and aides when providing direct client related services. This proposed regulation would define "client related" and "non-client related" tasks, Level I and Level II students, and what constitutes "periodic" review for supervision purposes.

Section 4181: This proposed regulation would specify what constitutes appropriate supervision of occupational therapy assistants; would provide that supervising occupational therapists be responsible for all occupational therapy services provided by occupational therapy assistants, limited permit holders, students, and aides; would provide that occupational therapy assistants could supervise occupational therapy assistant limited permit holders, Level I occupational therapy students, Level I and II occupational therapy assistant students, and aides providing non-client related tasks; and would require supervising occupational therapists to determine that those under their supervision possess the requisite certificates or permits to provide occupational therapy services.

Section 4182: This proposed regulation would provide that the supervising occupational therapist determine the treatments the occupational therapy assistant could perform based on the clinical complexity of the client, the skill level of the occupational therapy assistant, and the client's need for continual reassessment during treatment. This regulation would specify that the supervising occupational therapist be responsible for interpretation of referrals or prescriptions for occupational therapy services, interpretation and analysis for evaluation purposes, and development, interpretation, implementation and modification of the treatment and discharge plans. It would also provide that the occupational therapy assistant could participate in these processes.

Section 4183: This proposed regulation would specify that the Level II occupational therapy student could, at the discretion of the supervising occupational therapist, provide occupational therapy services commensurate with his or her education and training. It would also require that all documented client-related services provided by limited permit holders and students be reviewed and cosigned by the supervising occupational therapist.



Section 4184: This proposed regulation would specify that the primary function of an aide is to perform routine tasks related to occupational therapy services; would identify the client-related tasks that could be delegated to an aide and the factors that must be considered before delegation; would specify that an aide could **not** perform occupational therapy evaluative procedures, initiation, planning, adjustment, or modification of treatment procedures, act on behalf of the supervising occupational therapist in any matter related to treatment that requires decision making, and use physical agent modalities; and would require that all documented client-related services be reviewed and cosigned by the supervising occupational therapist.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

- Mandate on local agencies or school districts: None
- Costs or savings to any state agency: None
- Costs to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None
- Other non-discretionary costs or savings imposed on local agencies: None
- Costs or savings in federal funding to the state: None
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None
- Cost impact on a representative private person or business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Adoption of this regulation would not: (1) create or eliminate jobs in California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently operating in California.
- The proposed regulation does not mandate the use of specific technologies or equipment.
- Significant effect on housing costs: None

#### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulatory action will not have an adverse impact on small businesses because the regulation does not directly regulate small businesses, does not require reports or any other compliance activities.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternatives it considered or that have otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or as effective and less burdensome on affected private persons than the proposal described in this Notice.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If the Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the Board adopts the regulation as revised. Any such modifications will be posted to the Board's web site. Please send requests for copies of any modified regulation to the attention of Jeff Hanson at the address indicated above. The Board will accept written comments on any modified regulation for 15 days after the date on which they are made available.

#### INITIAL STATEMENT OF REASONS AND TEXT OF THE PROPOSED REGULATIONS/ INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulation have been prepared and are available from the contact person named in this notice. The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at the address listed above. As of the date this notice is published in the CRCN, the rulemaking file consists of this Notice, the Initial Statement of Reasons and the proposed text of the regulation. In addition, the above-cited materials may be accessed through the Board's web site at [www.bot.ca.gov](http://www.bot.ca.gov).

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the web site listed above.

## TITLE 22. DEPARTMENT OF HEALTH SERVICES

### ACTION

Notice of Proposed Rulemaking  
Title 22, California Code of Regulations

### SUBJECT

Lead and Copper Requirements for Drinking Water  
(R-21-01)

### PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Health Services will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions relevant to the action described in this notice. Any written statements, arguments or contentions must be received by the Office of Regulations, Department of Health Services, 714 P Street, Room 1000, P.O. Box 942732, Sacramento, CA 94234-7320, by 5 p.m. on January 13, 2003, which is hereby designated as the close of the written comment period. It is requested but not required that written statements, arguments or contentions sent by mail or hand-delivered be submitted in triplicate.

Comments by FAX (916-657-1459) or email (regulation@dhs.ca.gov) must be received before 5:00 p.m. on the last day of the public comment period. All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited.

### CONTACTS

**In any of the following inquiries, please identify the action by using the Department regulation control number R-21-01:**

1. In order to request a copy of this regulation package be sent to you, please call (916) 654-0381 or email regulation@dhs.ca.gov.
2. Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Alexis M. Milea of the Division of Drinking Water and Environmental Management at (510) 540-2177.
3. All other inquiries concerning the action described in this notice may be directed to Charles E. Smith of the Office of Regulations at (916) 657-0730, or to the designated backup contact person, Allison Branscombe, at (916) 657-0692.

Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

All suppliers of domestic water to the public are subject to regulations adopted by the U.S. Environmental Protection Agency (EPA) under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) as well as by the California Department of Health Services (Department) under the California Safe Drinking Act (Sections 116300-116750, Health and Safety Code [H&S Code]). California has been granted "primacy" for the enforcement of the Federal Act. In order to receive and maintain primacy, states must promulgate regulations that are no less stringent than the federal regulations.

In accordance with federal regulations, California requires public water systems to sample their sources and have the samples analyzed for inorganic and organic substances to determine compliance with drinking water standards, also known as maximum contaminant levels (MCLs). Primary MCLs are based on health protection, technical feasibility, and costs. Secondary MCLs are based on consumer acceptance, using parameters such as odor, taste, and appearance as measures of acceptability. The water supplier must notify the Department and the public when a primary or secondary MCL has been violated and take appropriate action. Public water systems must also sample for a number of "unregulated" chemicals, as set forth in regulation. When MCLs are not the most feasible or appropriate approach to minimizing the level of a contaminant in drinking water, regulations are adopted that use "treatment techniques" to control the levels of the contaminant instead. The lead and copper rule is a "treatment technique" regulation.

On December 11, 1995, for conformance with the federal lead and copper rule, 40 Code of Federal Regulations (CFR) Parts 141 and 142, [Federal Register (FR) 56 (110), 26460-26564, June 7, 1991; amended July 15, 1991 (56 FR 32113), June 29, 1992 (57 FR 28786) and June 30, 1994 (59 FR 33860)], California adopted requirements for community water and nontransient-noncommunity systems to monitor and treat drinking water to minimize the corrosivity and, therefore, the lead and copper levels, in water served to the public. On Jan 12, 2000, EPA promulgated further revisions to the lead and copper rule [Federal Register 65(8), 1950-2002]. The new federal revisions include requirements that California must adopt to maintain primacy and others that are

optional. The California regulations now being proposed incorporate all the required and almost all of the optional federal revisions.

When the Department initially adopted the federal requirements, it had a limited timeframe within which to do so and was not able to rewrite the federal lead and copper rule to eliminate its redundancies, ambiguities, excess verbiage, and confusing organization. Consequently, the Department's field staff has encountered difficulties implementing the regulations, and drinking water utilities have been challenged in their efforts to comply. Subsequent to EPA's adoption of the federal lead and copper rule revisions, the Department determined that a rewrite of the existing regulations would facilitate both enforcement and compliance efforts, and therefore the existing state regulations were rewritten while incorporating the federal lead and copper rule revisions. Given the major changes being proposed to the format of the existing state regulations, the proposed new state regulations are presented as a repeal of the existing lead and copper requirements in chapter 17.5 of division 4, title 22, California Code of Regulations, to be replaced by an entirely new chapter 17.5. Except as described below, all requirements in the proposed new chapter 17.5 are supported by references to the federal lead and copper rule (40 CFR Parts 141 and 142).

Specifically, the Department proposes to repeal the existing chapter 17.5 (sections 64670 through 64692, inclusive) of division 4, title 22, California Code of Regulations, and replace it with the proposed new chapter 17.5 (new sections 64670 through 64690.80, inclusive). The articles indicating the organization and content of the proposed new chapter 17.5 are as follows:

#### Chapter 17.5. Lead and Copper

- Article 1. General Requirements and Definitions
- Article 2. Requirements According to System Size
- Article 3. Monitoring for Lead and Copper
- Article 4. Water Quality Parameter (WQP) Monitoring
- Article 5. Corrosion Control
- Article 6. Source Water Requirements for Action Level Exceedances
- Article 7. Public Education Program for Lead Action Level Exceedances
- Article 8. Lead Service Line Requirements for Action Level Exceedances
- Article 9. Reporting and Recordkeeping

The net effect of the chapter reorganization and proposed incorporation of the most recent federal lead and copper rule revisions cited would be that:

- Large water systems (serving more than 50,000 people) deemed to have optimized corrosion control would be required to continue monitoring to demonstrate that the treatment is maintained.
- Systems with corrosion control treatment would be subject to a different compliance determination for water quality parameters.
- Systems on reduced lead and copper monitoring would be required to use representative sampling sites.
- Lead and copper tap samples could be invalidated if certain criteria were met.
- Small water systems (serving 3,300 or fewer people) could obtain waivers for lead and copper tap sampling.
- Analytic methods for lead, copper, pH, conductivity, calcium, alkalinity, orthophosphate, silica, and temperature prescribed at 40 Code of Federal Regulations, Section 141.89 [Federal Register (FR) 56 (110), 26460–26564, June 7, 1991; amended July 15, 1991 (56 FR 32113), June 29, 1992 (57 FR 28786), June 30, 1994 (59 FR 33860), and January 12, 2000 (65 FR 1250)] would be incorporated by reference in proposed new section 64670.

Adoption of these requirements would satisfy the mandate in section 116350, H&S Code, and federal primacy requirements related to the adoption of regulations at least as stringent as the federal. However, there are some differences between the federal and proposed state regulations:

- Section 64670(d) proposes to specify the timeframe for coming into compliance with chapter 17.5 for both new systems and systems that change size categories; there is no comparable federal requirement.
- A number of terms are defined in order to simplify and reduce the wording in the state regulation text for the sake of clarification: action level exceedance (section 64671.08), period (section 64671.55), tap sampling (section 64671.73), water quality parameter (WQP)(section 64671.75), and WQP monitoring (section 64671.80).
- Section 64671.15 defines the term "Detection Limit for Purposes of Reporting" or "DLR" for consistency with other state regulations.
- Section 64673(c)(2)(B) sets the timeframe for beginning corrosion control treatment installation in order to facilitate completion on schedule; there is no comparable federal requirement.
- Section 64675(c) specifies the requirements with which the water supplier must comply in order to determine sampling sites; there is no comparable federal requirement.



- Section 64678(b) establishes how to use levels between the method detection level and the practical quantitation level (PQL)(known as the DLR in California); this is not directly specified in the federal requirements, but consistent with federal intent; it is a requirement in the existing Chapter 17.5.
- Section 64678(c) establishes that levels less than the method detection level shall be considered zero; this is not directly specified in the federal requirements except for source water monitoring, but consistent with federal intent; it is a requirement in the existing chapter 17.5.
- Section 64684(d)(2)(C) clarifies that when sampling is less than daily, the daily value applies to the day that the supplier receives the lab result or the 14th day, whichever comes first. The Department determined that for some water quality parameters, e.g., zinc, phosphate, specific conductance, and total alkalinity, in-house lab results are not available for at least 48 hours and for water suppliers contracting with commercial laboratories, two weeks is the normal turnaround time with surcharges being levied for shorter turnaround times. One large supplier reported that costs rose by 50% to have the shortest available turnaround time of 5 days. Since the highest required monitoring frequency is biweekly and there is no direct relationship between these parameters and risks to public health, applying the result to the day the supplier receives it is appropriate. The supplier cannot take action until aware that there is a problem. The drafted language would support the designation of optimal levels/ranges for water quality parameters and thereby encourage full corrosion control treatment optimization without penalizing suppliers that monitor with the required frequency [by comparison reference 40 CFR 141.82(g)].

#### AUTHORITY

Sections 100275, 116350, 116365, 116375, and 116385, Health and Safety Code.

#### REFERENCE

Sections 116325 through 116750, Health and Safety Code.

#### FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: Annual savings that are not measurable.
- B. Fiscal Effect on State Government: Annual savings that are not measurable.
- C. Fiscal Effect on Federal Funding of State Programs: No fiscal impact exists.

- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: Small water systems (serving 3,300 or fewer people) could obtain waivers for lead and copper tap sampling under the proposed regulations, and this provision could result in a significant cost savings for small water systems, since sampling would be required only once every 9 years instead of annually or triennially, depending on the system.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

#### DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California. The proposed regulations should not have any affect in this area in that there would not be any change in water system or regulatory personnel needed for compliance with the proposed requirements.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California. The nature of the water industry is such that the proposed regulations would not result in the creation or elimination of water systems. The impact of the regulations will be insignificant. Based on previous experience, the Department does not expect that the monitoring costs estimated for this regulation will affect the number of businesses in California, while the overall net savings could be of benefit.
- (3) The expansion of businesses currently doing business within the State of California. Since water system size is basically a function of the number of service connections (consumers) served, the proposed regulations should not have any affect on expansion.



The Department has determined that the regulations would not affect small business because Government Code Chapter 3.5, Article 2, Section 11342.610 excludes drinking water utilities from the definition of small business.

The Department has determined that the regulations will have no impact on housing costs.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. A copy of the initial statement of reasons and a copy of the text of the proposed regulations are available upon request by writing to the Office of Regulations at the address noted above, which address will also be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file). Additionally, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations at the address noted above. Materials regarding the proposed regulations that are available via the Internet may be accessed at

<http://www.applications.dhs.ca.gov/regulations/>.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

#### ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

Sign language interpreting services at a public hearing or other reasonable accommodation will be provided upon request. Such request should be made

no later than 21 days prior to the close of the written comment period, and addressed to the Office of Civil Rights within the Department of Health Services by phone (916-657-1411); FAX (916-657-0153); TDD (916-657-2861); or email (civilrights-ra@dhs.ca.gov).

## TITLE 22/MPP. DEPARTMENT OF SOCIAL SERVICES

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

#### Item #2 Adult Residential Facility Hospice Package ORD #0802-20

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held January 15, 2003 as follows:

January 15, 2003  
State Office Building #9  
744 P Street, Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The CDSS will adjourn the hearings immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify CDSS at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by telefax to the address/number listed below. All comments must be received by 5:00 p.m. on January 15, 2003.

The CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice and the proposed regulations are also available online at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which CDSS considered as the basis for

these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

#### CONTACT

Anthony J. Velasquez, Chief  
Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
TELEFAX: (916) 654-3286  
E-MAIL: ord@dss.ca.gov

#### CHAPTERS

Community Care Licensing, Title 22, Division 6, Chapter 6—Adult Residential Facilities, Article 1.—General Requirements and Definitions, Section 85001 (Definitions), Article 6.—Continuing Requirements, Section 85075.1 (Hospice Care), Section 85075.2 (Facility Hospice Care Waiver), Section 85075.3 (Advance Health Care Directives), and Section 85075.4 (Observation of the Client).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These proposed Community Care Licensing Division (CCLD) regulations amend specific provisions in Chapter 6 of Title 22 of the California Code of Regulations governing Adult Residential Facilities (ARFs).

In 1999, the legislature amended Health and Safety Code Section 1507.3 to permit a residential facility that provides care to adults to obtain a waiver from the Department to allow a client who has been diagnosed as terminally ill by a physician or surgeon, to remain in the facility under certain conditions. This hospice regulation package will provide consistency between the ARF licensing category and the hospice regulations recently amended for Residential Care Facilities for the Elderly.

In addition to adopting Sections 85075.1 and 85075.2 concerning Hospice Care and Facility Hospice Care Waivers, these regulations also adopt Section 85075.3—Advance Health Care Directives. Section 85075.3 is adopted to specify that an Advance Health Care Directive is permissible, and to clarify applicable staff procedures.

The numbering format of Section 86001 et seq. is being revised to be consistent with Title 22 regulations.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: None
2. Costs to Local Agencies or School Districts: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no stateman-dated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

The CDSS has determined that the proposed regulations will affect small businesses.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Health and Safety Code Sections 1530 and 1562.3. Subject regulations implement and

make specific Health and Safety Code Sections 1501, 1502.2, 1507, 1507.3, 1521, 1530, 1531, and 1562.3; and Probate Code Sections 1800, 4605, and 4753.

CDSS REPRESENTATIVE REGARDING  
RULEMAKING PROCESS OF THE  
PROPOSED REGULATION

Contact Person: Anthony J. Velasquez  
(916) 657-2586  
Backup: Steve Smalley  
(916) 657-2586

CDSS REPRESENTATIVE REGARDING  
SUBSTANCE OF THE PROPOSED REGULATION

Program Contact: Barbara Baker  
(916) 322-3178  
Backup: Joan Regeleski  
(916) 324-3058

AGENDA ITEMS FOR THIS PUBLIC  
HEARING—January 15, 2003

- ITEM #1 ORD #0702-17  
Care of Persons with Dementia in Residential Care Facilities for the Elderly  
ITEM #2 ORD #0802-20  
Adult Residential Facility Hospice Package

**TITLE 22/MPP. DEPARTMENT OF  
SOCIAL SERVICES**

NOTICE OF PROPOSED CHANGES  
IN REGULATIONS

- ITEM #1 Care of Persons with Dementia in Residential Care Facilities for the Elderly  
ORD #0702-17

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at the public hearing to be held on January 15, 2003, as follows:

January 15, 2003  
CDSS Office Building #9  
744 P Street, Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on January 15, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Anthony J. Velasquez, Chief  
Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

CHAPTERS

Community Care Licensing, Title 22, Division 6, Chapter 8—Residential Care Facilities for the Elderly, Section 87101 [Definitions], Section 87111 [Advertisements and License Number], Section 87222 [Plan of Operation], Section 87565 [Personnel Requirements—General], Section 87566 [Personnel Records], Section 87569 [Medical Assessment], Section 87570 [Resident Records], Section 87582 [Acceptance and Retention Limitations], Section 87591 [Observation of the Resident], Section 87593 [Requirements for Emergency Adult Protective Services Placements], Section 87724 [Care of Persons with Dementia], Section 87725 [Advertising Dementia Special Care], Section 87725.1 [Training Require-



ments if Advertising Dementia Special Care], and Section 87725.2 [Advertising Dementia Special Care at Final Adoption of Regulations.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This proposed package puts into regulations the requirements of AB 1753 (Romero), Chapter 434, Statutes of 2000 that is specific to Residential Care Facilities for the Elderly (RCFEs). This legislation imposes requirements for licensees who advertise/promote dementia special care, programs, and/or environments for residents with dementia. Also, this legislation amends Sections 1569.15(m), 1569.33(d) and adds Sections 1569.626 and 1569.627 to the Health and Safety Code. Statute requires the licensee to disclose the facility's specialized services, programs and environments that pertain to dementia special care in its plan of operation and to the public upon request. In addition, it requires the licensee to ensure that direct care staff, who provide care to residents with dementia, receive six hours of resident care orientation within the first four weeks of employment. They must also receive eight hours of in-service training per year on the subject of caring for residents with dementia.

Sections 87101, 87222, 87565, and 87566 are proposed for amendment and Sections 87725, 87725.1, and 87725.2 are proposed for adoption to implement this legislation in Title 22, Division 6, Chapter 8 in the Manual of Policies and Procedures for RCFEs. In addition, an implementation plan for AB 1753 went into effect on July 1, 2001, which must be followed until final regulations are adopted.

Additionally, CDSS is reformatting the existing RCFE regulations and proposing new language focusing on safeguards and dignity issues, including self-storage of the residents' personal hygiene and grooming supplies. The present requirement for licensing approval to care for certain individuals with dementia, through a dementia waiver, will be eliminated. In addition, new definitions are proposed. These revisions incorporate input from a dementia work-group policy forum. These proposed amendments are located in Title 22, Division 6, Chapter 8 in the Manual of Policies and Procedures for RCFEs, in Sections 87101, 87111, 87222, 87566, 87569, 87570, 87582, 87591, 87593, and 87724.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: None.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is an impact on small businesses.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Health and Safety Code Sections 1569.30 and 1569.31. Subject regulations implement and make specific Health and Safety Code Sections 1569.15(m), 1569.22, 1569.312, 1569.33(d), 1569.355, 1569.62(a), 1569.625, 1569.626, and 1569.627.



CDSS REPRESENTATIVE REGARDING  
RULEMAKING PROCESS OF THE  
PROPOSED REGULATION

Contact Person: Anthony J. Velasquez  
(916) 657-2586  
Backup: Jaimie Porter  
(916) 653-8000

CDSS REPRESENTATIVE REGARDING  
SUBSTANCE OF THE PROPOSED REGULATION

Program Contact: Debbie Fox  
(916) 322-3178  
Backup: Joan Regeleski  
(916) 324-3952

AGENDA ITEMS FOR THIS  
PUBLIC HEARING—January 15, 2003

- ITEM #1 ORD #0702-17  
Care of Persons with Dementia in  
Residential Care Facilities for the Elderly  
ITEM #2 ORD #0802-20  
Adult Residential Facility Hospice  
Package

**TITLE 24. BUILDING  
STANDARDS COMMISSION**

**NOTICE OF PROPOSED CHANGES TO  
BUILDING STANDARDS FROM THE  
BOARD OF CORRECTIONS**

**REGARDING THE MINIMUM STANDARDS  
FOR JUVENILE FACILITIES  
CALIFORNIA CODE OF REGULATIONS,  
TITLE 24, PART NUMBER 1 AND 2**

**MINIMUM STANDARDS FOR LOCAL  
JUVENILE FACILITIES—TITLE 24**

Notice is hereby given that the Board of Corrections (BOC) proposes to amend and adopt building standards contained in the California Code of Regulations (CCR), Title 24, Part 1 and 2. The BOC is proposing building standards related to Minimum Standards for Local Juvenile Facilities.

**PUBLIC COMMENT PERIOD**

The Board of Corrections will hold public hearings:  
December 2, 2002 at 1:00 p.m.  
Santa Ana Police Department  
Community Room (Room M-97)  
60 Civic Center Plaza  
Santa Ana, CA 92702  
January 13, 2003 at 1:00 p.m.  
Board of Corrections  
660 Bercut Drive  
Sacramento, CA 95814

At the public hearing, the Board will accept comments or proposals from interested persons relevant to the proposed Minimum Standards For Local Juvenile Facilities. The meeting facilities are accessible to the physically handicapped, and the public hearing will remain open as long as persons in attendance are presenting testimony.

Written comments will be accepted by the Board of Corrections regarding the proposed changes to Title 24, Part 1 and 2, from November 29, 2002 until 5:00 p.m. on January 13, 2003. This notice, the "Express Terms" (proposed regulatory changes to Title 24, Part 1 and 2), "Informative Digest", and the "Initial Statement of Reasons", can be viewed at the Board of Corrections' website ([www.bdcorr.ca.gov](http://www.bdcorr.ca.gov)). Written comments can be addressed to the below listed BOC representatives. For those persons, who do not have access to the Internet, please submit a written request to:

Barbara Baker, Field Representative  
600 Bercut Drive  
Sacramento, CA 95814  
(916) 323-8620  
[bbaker@bdcorr.ca.gov](mailto:bbaker@bdcorr.ca.gov)

Bob Takeshta, Field Representative  
600 Bercut Drive  
Sacramento, CA 95814  
(916) 322-8346  
[btakeshta@bdcorr.ca.gov](mailto:btakeshta@bdcorr.ca.gov)

**POST-HEARING MODIFICATIONS TO THE  
TEXT OF THE REGULATIONS**

Following the public comment period, the Board of Corrections may adopt the regulations as proposed, or with non-substantial, or grammatical modifications. The BOC may also adopt the proposed regulations with clarifying language, as long as the regulations are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, with the exception of non-substantive technical or grammatical changes, the full text of any proposed modifications will be available to all persons who testify or submit written comments during the public comment period, and all persons who request notification, for at least 15 days prior to the date on which the BOC adopts, amends, or repeals the regulations. The BOC will accept written comments on the modified Title 24 Regulations during the 15-day period. Please address your comments to the BOC representatives listed.

**AUTHORITY AND REFERENCE**

The Board of Corrections proposes to adopt these building standards under the authority granted by Welfare and Institutions Code Sections 207.1, 210, 210.2, and 885, and Penal Code Section 6030. The

purpose of these building standards is to implement, interpret, and make specific the provisions of Chapter 12, Statutes of 1996 (AB 1397). The Board of Corrections is proposing this regulatory action based on 1995 Budget Act, Chapter 303, Statutes of 1995.

### INFORMATIVE DIGEST

#### Summary of Existing Laws

Welfare and Institutions Code Section 210 states that the Board of Corrections shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors. Section 210.2 states that the BOC shall adopt regulations establishing standards for law enforcement facilities which contain lockups for adults and which are used for the temporary secure detention of minors upon arrest under subdivision (d) of Section 207.1. Section 885 states the BOC shall adopt and prescribe the minimum standards of construction, operation, programs of education and training, and qualifications of personnel for juvenile ranches, camps, or forest camps established under Section 881. Penal Code Section 6030 states the BOC shall establish minimum standards for local detention facilities and shall review such standards biennially and make any appropriate revisions.

#### Summary of Existing Regulations

Title 24, Part 1, Section 13-201 addresses the initial planning process for local detention facilities and provides general principles to govern their design. Title 24, Part 2, Section 460A provides specific minimum standards for the design and furnishing of a facility.

#### Summary of Effect

The Board of Corrections proposes adoption, amendment, or repeal of the following Title 24 Minimum Standards for Local Juvenile Facilities.

#### Comparable Federal Statute or Regulations

Appendix Chapter 3A (AC3A), Division II, Title 24, California Building Code, these regulations have been adopted by the State Fire Marshal and they are frequently referred to as the "The State Fire Marshal's regulations." These regulations apply to adult and juvenile facilities.

#### Policy Statement Overview

The Minimum Standards for Juvenile Facilities—Title 24 Regulations are regularly reviewed and updated as required by Welfare and Institutions Code Sections 210 and 885, which require the Board to establish standards for juvenile facilities.

### TITLE 24, PART 1, SECTION 13-201 AND PART 2, SECTION 460A

Section 13-201(a)—Definitions: This section is amended to add new definitions for "new generation design" and "security glazing". The definitions in Title 24 will duplicate those in Title 15, Section 1302.

### SECTION 13-201 (c) INITIAL PLANNING FOR A LOCAL JUVENILE FACILITY

Section 13-201(c)2—Comprehensive Needs Assessment Study/Targeted Needs Assessment: This section is amended to distinguish between a Comprehensive Needs Assessment, which is required for the construction of any new juvenile facility or the expansion of the rated capacity for an existing facility. And a "Targeted Needs Assessment", which is defined as having a limited scope (i.e. add bed project), and this limited scope project has already received prior BOC approval during the submittal of a Comprehensive Needs Assessment.

Section 13-201 (c) 3—Operational Program Statement: Editorial change to add the word operational to program statement. This change eliminates the confusion between the terms architectural program and program statement.

Section 13-201(c) 6—Design Requirements: This section is amended to add that telephone cords shall be of minimum length to facilitate use. This change is to reduce the suicide hazard of the longer telephone cord. This section is amended to require that all sleeping rooms are to be "wet" to eliminate the need for staff to escort minors to the restroom. This section is amended to clarify where "security glazing" is required in newly constructed or remodeled facilities. An editorial change was made to 13-201 (c) 6.B (6) Heating and Cooling to address the correct code citation. An editorial change; to 13-201 (c) 6.B (9) Security, was made to clarify that the facility design provides security and supervision appropriate to the classification level of minors in custody.

### SECTION 460A.1 DESIGN CRITERIA FOR REQUIRED SPACES

Section 460A. 1.2—Locked Holding Room: This section is amended to require that locked holding rooms be equipped with toilet, wash basin, and drinking fountains, unless a procedure is in effect to allow a minor access to these services. This section is also amended to require that locked holding rooms have an outward swinging or lateral sliding door.

Section 460A.1.5—Living Unit: This section is amended to clarify that a living unit shall not be divided by any permanent or temporary barrier that hinders direct access, supervision or immediate intervention or other action if needed.

Section 460A. 1.6—Locked Sleeping Rooms: This section is amended to require that locked sleeping rooms shall be equipped with an individual or combination toilet, wash basin and drinking fountain and that doors to locked sleeping rooms shall swing outward or slide laterally.

Section 460A. 1.7—Single Occupancy Sleeping Rooms: This section is amended to increase the minimum square footage of a single occupancy room from 63 square feet of floor area to 70 square feet of floor area. This section is also amended to require that single and occupancy sleeping room doors swing outward or slide laterally.

Section 460A.1.8—Double Occupancy Sleeping Rooms: This section is amended to require that double occupancy sleeping room doors swing outward or slide laterally. An editorial change was also made to add the word “view” in front of the work “panel” to create consistent wording of the standard.

Section 460A.1.9—Dormitories: The current regulation allows a maximum dormitory size of 15 minors under “detained” status while providing a maximum dormitory size of 30 minors under “court commitment” status. This section is amended to allow a maximum dormitory size of 30 minors regardless of status.

Section 460A. 1.13—Safety Room: This section is amended to provide access to toilet, washbasin, and drinking fountains outside of the safety room. This section is also amended to add that a safety room be equipped with a variable intensity, security-type lighting fixture with controls located outside the room, and wall or ceiling devices must be inaccessible to the minor occupying the safety room.

Section 460A.2.10—Security Glazing: This is a new regulation that requires security glazing to comply with the minimum requirements of specified tests as stated in the new regulation.

**OTHER MATTERS PRESCRIBED BY STATUTE  
APPLICABLE TO THE AGENCY OR TO ANY  
SPECIFIC REGULATION OR CLASS  
OF REGULATIONS**

The Board of Corrections is required by Welfare and Institutions Code Sections 207.1, 210.2, and Penal Code Section 6030 to establish Title 15 Minimum Standards for Juvenile and Adult Facilities.

**MANDATE ON LOCAL AGENCIES OR  
SCHOOL DISTRICTS**

The BOC has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

**ESTIMATE OF COST OR SAVINGS**

- A. Cost or Savings to any state agency: No
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: No
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: No
- D. Other nondiscretionary cost or savings imposed on local agencies: No
- E. Cost or savings in federal funding to the state: No

Estimate: None anticipated

**INITIAL DETERMINATION OF SIGNIFICANT  
STATEWIDE ADVERSE ECONOMIC IMPACT  
ON BUSINESSES**

No economic impact on businesses.

- A. Identification of the types of businesses that would be affected.
- B. A description of the projected reporting, record keeping, and other compliance requirements that would result from the proposed action.

**INITIAL DETERMINATION OF NO  
SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESSES**

The BOC has made an initial determination that the adoption/amendment/repeal of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

**DECLARATION OF EVIDENCE**

Amendments to these regulations only affect local juvenile detention facilities.

**FINDING OF NECESSITY FOR THE PUBLIC’S  
HEALTH, SAFETY, OR WELFARE**

Not applicable

**COST IMPACT ON REPRESENTATIVE PRIVATE  
PERSON OR BUSINESS**

The BOC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.



**ASSESSMENT OF EFFECT OF REGULATIONS  
UPON JOBS AND BUSINESS EXPANSION,  
ELIMINATION OR CREATION**

The BOC has assessed whether or not and to what extent this proposal will affect the following:

- The creation or elimination of jobs within the State of California.  
None
- The creation of new businesses or the elimination of existing businesses within the State of California.  
None
- The expansion of businesses currently doing business with the State of California.  
None

**INITIAL DETERMINATION OF SIGNIFICANT  
EFFECT ON HOUSING COSTS**

The BOC has made an initial determination that this proposal would not have a significant effect on housing costs.

**CONSIDERATION OF ALTERNATIVES**

The BOC has determined that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF  
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the BOC representatives listed persons named below. This notice, the express terms and initial statement of reasons can be accessed from the Board of Corrections' website:

<http://www.bdcorr.ca.gov>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the Board of Corrections' website.

**BOC CONTACT PERSON FOR PROCEDURAL  
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

**Below Named BOC Representatives**

**PROPOSING STATE AGENCY CONTACT  
PERSON FOR SUBSTANTIVE AND/OR  
TECHNICAL QUESTIONS ON THE PROPOSED  
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Barbara Baker, Field Representative  
600 Bercut Drive  
Sacramento, CA 95814  
(916) 323-8620  
[bbaker@bdcorr.ca.gov](mailto:bbaker@bdcorr.ca.gov)

Bob Takeshta, Field Representative  
600 Bercut Drive  
Sacramento, CA 95814  
(916) 322-8346  
[btakeshta@bdcorr.ca.gov](mailto:btakeshta@bdcorr.ca.gov)

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF INSURANCE**

**CALIFORNIA INSURANCE COMMISSIONER**

**NOTICE OF AVAILABILITY OF PRECEDENTIAL  
DECISIONS AND DECISION INDEX**

Re: Government Code section 11425.60

NOTICE IS HEREBY GIVEN that the California Insurance Commissioner, pursuant to the requirements of section 11425.60 of the Government Code, maintains an index of precedent decisions. The index is available to the public by annual subscription from the Administrative Hearing Bureau, Department of Insurance, 45 Fremont St., 22nd Floor, San Francisco, California 94105. The text of the decisions themselves, as well as the index, can also be viewed by appointment at the above address or accessed at any time on the internet at <http://www.xv.insurance.ca.gov>, under the "Legal Materials" section.

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL**

**Notice of Intent to Certify**

**Hazardous Waste Environmental Technologies**

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) intends to certify the following company's hazardous waste environmental technology:

Applicant: Cooper Power Systems, Inc.  
1900 East North Street  
Waukesha, Wisconsin 53188

Technology: Envirotemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid

Chapter 412, Statutes of 1993, Section 25200.1.5, Health and Safety Code, enacted by Assembly Bill 2060 (AB 2060 by Assemblyman Ted Weggeland) authorizes DTSC to certify the performance of hazardous waste environmental technologies. The purpose of the certification program is to provide an in-depth, independent review of technologies at the manufacturers' level to facilitate regulatory and end-user acceptance. Only technologies that are determined to not pose a significant potential hazard to the public health and safety or to the environment when used under specified operating conditions may be certified. Incineration technologies are explicitly excluded from the certification program.

DTSC makes no express or implied warranties as to the performance of the manufacturer's product or equipment. The end-user is solely responsible for complying with the applicable federal, state, and local regulatory requirements. Certification does not limit DTSC's authority to require additional measures for protection of public health and the environment.

By accepting certification, the manufacturer assumes, for the duration of certification, responsibility for maintaining the quality of the manufactured equipment and materials at a level equal to or better than was provided to obtain certification and agrees to be subject to quality monitoring by DTSC as required by the statute under which certification is granted.

DTSC's proposed decision to certify is subject to public review and comment. Written comments must be received by DTSC no later than 30 days after publication of this notice. All comments will be considered and appropriate changes will be made prior to publishing DTSC's final decision.

Prior to issuing this Notice of Intent to Certify, Cooper Power Systems submitted comments that the acute toxicity tests performed, as part of this certification evaluation did not fully comply with the procedures specified in the California Code of Regulations. Specifically, Cooper expressed concern that the sample preparation method selected produced an emulsion of the vegetable oil-based Envirotemp®FR3™ fluid with water. Cooper contends that the produced emulsion presented a physical toxicity by coating the gills of the test fish, and that the Department should have selected an alternative sample preparation procedure which evaluates the systemic rather than the physical toxicity of their product. Cooper references test results of an independent laboratory using a different sample preparation procedure, which found their product to produce zero mortality in fish. The complete text of Cooper's comments is provided under Section 6 of this notice.

Although the Department appreciates and understands the vendor's concerns, the Department disagrees with the vendor that the aquatic bioassay testing was not performed properly. A review of the aquatic bioassay test results and procedures found that the tests were performed in accordance with procedures set forth in California regulation for the determination of hazardous waste acute toxicity. The Department acknowledges that its aquatic bioassay test procedure may be more sensitive than most other methods, and does not distinguish between physical or systemic toxicity.

Additional information supporting DTSC's proposed decision, including the **May 2002** Final Environmental Technology Verification Report, is available for review at, and comments should be mailed to:

California Environmental Protection Agency  
Department of Toxic Substances Control  
Office of Pollution Prevention and Technology Development  
P.O. Box 806  
1001 I Street, 12th Floor  
Sacramento, California 95812-0806  
Attn: Suzanne Davis (916) 327-4206  
[http://www.dtsc.ca.gov/sciencetechnology/TechCert\\_index.html](http://www.dtsc.ca.gov/sciencetechnology/TechCert_index.html)

A description of the technology to be certified, the **proposed** certification statement and the certification conditions and limitations for the technology of the company listed above follow. DTSC emphasizes that this is a proposed certification for public comment, and not the final certification.

30-DAY PUBLIC NOTICE  
CERTIFICATION PROGRAM (AB 2060)  
FOR HAZARDOUS WASTE  
ENVIRONMENTAL TECHNOLOGIES

PROPOSED CERTIFICATION  
ENVIROTEMP®FR3™ VEGETABLE OIL-BASED  
INSULATING DIELECTRIC FLUID

**Technology:** Envirotemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid

**Manufacturer:** Cooper Power Systems, Inc.  
1900 East North Street  
Waukesha, Wisconsin 53188

**Technology Description**

Cooper Power Systems, Inc. (Cooper) has developed a vegetable oil-based dielectric fluid comprised of greater than 98.5% vegetable oil and less than 1.5% additives. The additives include antioxidants to prevent the unsaturated bonds in the oil from polymerizing with oxygen from the air, and color to visually differentiate it from mineral oil. The

Envirotemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid (Envirotemp®FR3™) is manufactured using a food-grade vegetable oil purchased from an off-site processor. Each vegetable oil shipment is tested and compared to Cooper's quality control specifications before it is accepted. At Cooper's facility, the oil is degassed and then blended with antioxidants and color additives. During and after the blending process, the product is tested and compared to Cooper's product specifications.

Envirotemp®FR3™ fluid is used in electrical apparatus such as liquid-filled transformers as an electrical insulating medium. In addition to providing electrical insulation, the oil transports heat generated around the transformer's windings, core and connected circuits to cooling surfaces where the heat is dissipated by radiation and convection to the outside air.

The main parts of a transformer are the core, the windings, the tank containing the core and windings, and the cooling system. The core is made of thin steel sheets laminated with varnish or an oxide film to insulate the sheets from each other. Two distinct sets of coils called windings are wound upon the core at a suitable distance from each other. These windings consist of wire insulated with a kraft paper covering. When the transformer is in-service, the oil and core expands and contracts as the heat generated by the transformer windings varies with the load. As the oil becomes heated, the hot oil rises to the top of the transformer where heat is dissipated to the outside, and then moves along the case to the bottom. Fins are sometimes attached to deflect moving air against the case and to increase the cooling area. Overheating the core can lead to damage, and overheating the windings can cause the paper insulation to deteriorate, which reduces the life of the transformer. Nearly all distribution transformers in the United States are sealed to prevent the oil from oxidizing with the air.

Envirotemp®FR3™ dielectric fluid exhibits a high fire point (>300°C), and is classified by Underwriter Laboratories (UL) and approved by Factory Mutual Research Center (FMRC) as a less flammable transformer fluid. Typically, the less-flammable fluids are used in transformers where additional fire safety is required, such as inside buildings, rooftops, vaults, and adjacent to buildings. Under Section 450-23 of the National Electrical Code (NEC), the installation requirements for less-flammable liquid insulated transformers in fire-sensitive areas are simpler than those for transformers filled with mineral oil.

### Basis for Certification

#### Evaluation Approach

The Envirotemp®FR3™ fluid evaluation was designed to provide the data necessary to draw conclusions on the technology's performance, chemi-

cal composition, toxicity, and safety. The evaluation included a review of supporting documents, information, and laboratory data submitted by Cooper, and field sampling to provide independent data on the technology's performance, chemical composition, and toxicity.

The field sampling was conducted at Cooper's manufacturing facility in Waukesha, Wisconsin, at San Mateo High School in San Mateo, California, and at Texas Instruments in Santa Cruz, California. San Mateo High School and Texas Instruments are customers of Artwel Electric, Inc. (Artwel), Cooper's distributor. Artwel and Cooper agreed to provide staff and access to these in-service transformers as part of the field sampling activities. Prior to the field sampling, DTSC staff prepared a Technology Evaluation Workplan (Workplan) to identify specific field objectives, data quality objectives, testing procedures, and roles and responsibilities. Cooper assumed overall responsibility for providing staff for sampling and obtaining access to all locations where field sampling was conducted. DTSC staff provided independent oversight and were present to observe all field sampling activities.

The oldest transformer in-service with Envirotemp®FR3™ fluid as the dielectric insulating fluid is 4.8 years old. Since the technology is still new, no data was available to assess the performance of Envirotemp®FR3™ fluid over a transformer's life or the fluid's waste characteristics at the end of the transformer's service life. According to Cooper, Envirotemp®FR3™ fluid has passed the Institute of Electrical and Electronic Engineers (IEEE) accelerated life tests which requires a tested transformer to have an operational equivalence of 100 years. This operational equivalence is five times the normal transformer life. According to Cooper, the insulation in the Envirotemp®FR3™ transformers showed less degradation than the insulation in identical transformers using mineral oil per this test. Based on this information, the normal service life is expected to be in the range of 20 years.

#### Verification Objectives

The field sampling objectives were to verify the applicant's technology performance claims for the Envirotemp®FR3™ dielectric insulating fluid listed below.

- **Verification/Certification Claim #1—General Performance:** Envirotemp®FR3™ fluid meets the dielectric breakdown specifications listed in ASTM D3487, *Standard Specification for Mineral Insulating Oil*, and ASTM D5222, *Standard Guide for High Fire Point Fluids of Petroleum Origin*, IEEE C57.121, *1998 IEEE Guide For Acceptance and Maintenance of Less Flammable Hydrocarbon*



*Fluid in Transformers*, IEC 1099, *Specifications for Unused Synthetic Organic Esters for Electrical Purposes*, and IEC 1203, *Synthetic Organic Esters for Electrical Purposes-Guide for Maintenance of Transformer Esters in Equipment*,

- **Verification/Certification Claim #2—Aquatic Biodegradability:** Envirotemp®FR3™ fluid biodegrades 99% based on the average of several biodegradation tests, as measured by OPPTS 835.3110, *Ready Biodegradability*,
- **Verification/Certification Claim #3—Flammability:** Envirotemp®FR3™ fluid has a flash point of at least 320°C, and fire point of 350°C, based on the average of several performance tests by independent labs performing ASTM D92 (Cleveland Open Cup),
- **Verification/Certification Claim #4—Acute Toxicity:** Virgin Envirotemp®FR3™ fluid passes the toxicity characteristic criteria in Code of California Regulations, Title 22, Section 66261.24(a)(6) as tested by U.S. EPA/600/4-90/027F Test for *Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, and
- **Other Verification/Certification Tests:** Verify that Envirotemp®FR3™ fluid consists of greater than 98.5 % vegetable oil and less than 1.5% additives, and meets selected Cooper product specifications; establish a baseline for measuring potential metals leaching and oil degradation of Envirotemp®FR3™ fluid under electrical loading over time; evaluate the worker health and safety aspects of Envirotemp®FR3™ fluid; and estimate costs using Envirotemp®FR3™ fluid as compared to those of mineral oil.

#### *Verification Activities and Results*

As part of this verification/certification, DTSC developed a technology evaluation workplan, which described the sample collection procedures and analyses to be performed. Samples were collected under DTSC oversight to ensure the samples were independent and representative. Samples were assigned a field sample identification number, which was determined prior to sampling. Proper chains of custody and storage procedures were followed. Four different laboratories were used to analyze the collected samples: Doble Engineering for the American Standard Testing Methods (ASTM) methods, Silliker Laboratories for the Association of Analytical Chemists (AOAC) methods, DTSC Hazardous Materials Laboratory (HML) for the semi-volatile organic compounds (SVOCs) and metals analyses, Associated Laboratories for the fish bioassay (acute toxicity) tests, and Global Tox for the aquatic biodegradability tests. Each laboratory sent data and reports directly to DTSC.

Four samples from three different virgin product lots (a total of twelve samples) were collected at Cooper's dielectric fluid formulating facility in Waukesha, Wisconsin. Two lots were contained in 55-gallon drums while the third lot was contained in a 2,500-gallon finishing tank. Barrel samples were collected using a glass ColiWasa. A new glass ColiWasa was used at each new barrel sampled to reduce the potential of cross contamination between samples. The finishing tank samples were collected at a sampling spigot located beneath the tank. Approximately one pint of oil was drained from the tank via the spigot prior to sampling.

Three samples, one from each lot, were analyzed by the following methods: EPA Method 8270/3520 for SVOCs; EPA Method 6010/5030 for metals; U.S. EPA Method 600/4-90/027F for acute toxicity; U.S. EPA Method OPPTS 835.3110 for aquatic biodegradation; AOAC Method 981.11, Oils and Fats; AOAC Method 972.28, Total Fatty Acids in Oils and Fats; AOAC Method 963.22, Methyl Esters of Fatty Acids in Oils and Fats; AOAC Method 983.15, Phenolic Antioxidants in Oils, Fats, and Butter; AOAC Method 977.17, Polymers and Oxidation Products of Vegetable Oils; American Standard testing Methods (ASTM) Method D92, flash and fire point; ASTM Method D97, pour point; ASTM Method D445, kinematic viscosity at 0°C, 40°C, and 100°C; ASTM Method D877, dielectric breakdown (minimum); ASTM Method D1816, dielectric breakdown (gap); ASTM Method D3300, dielectric breakdown (impulse); ASTM Method D924, dissipation factor at 25°C and 100°C; ASTM Method D971, interfacial tension; ASTM Method D974, neutralization number; and ASTM Method D1533, water content. One duplicate was analyzed for SVOCs, metals, and the AOAC and ASTM methods listed above. Two matrix spikes and an equipment blank were analyzed for SVOCs and metals. A field blank was analyzed for metals only.

Cooper also collected split samples from each lot sampled by DTSC. These split samples were analyzed by Cooper for dielectric breakdown voltage, dissipation factor at 25°C, water content, interfacial tension, neutralization number, pour point, flash and fire point, and viscosity at 40°C and 100°C using the above-specified ASTM methods. These samples were initially analyzed by Cooper to verify the dissipation values reported by Doble Engineering.

Four different in-service transformers were also sampled as part of this verification/certification: two owned by Cooper located in Waukesha, Wisconsin, one owned by San Mateo High School (SMHS) in San Mateo, California, and one owned by Texas Instruments (TI) in Santa Cruz, California. The sampled transformers were in service for at **least one year** and part of a regular sampling/testing environment. In-

service fluid samples were collected by Cooper and Artwel representatives under DTSC oversight and in conjunction with the normal on-going sampling program. Only one sample per transformer was collected to minimize the amount of fluid removed from each transformer and the impact to the ongoing test program. New Tygon tubing connectors were used at each transformer fluid sampling port to reduce the potential of cross contamination.

The transformer pressure valve was checked to confirm the unit was under positive pressure prior to sampling. A stainless steel sampling cylinder with Tygon tubing was attached to the sampling port and used to purge oil from the transformer to ensure ambient air was not introduced into the transformer. After a few pints of oil had been purged through the sampling cylinder, the sample bottles were filled using Tygon tubing attached to the sampling cylinder.

The in-service transformer samples were analyzed using the same methods listed for the virgin product samples for SVOCs, metals, and the AOAC analyses. To minimize the amount of fluid removed from each transformer, the in-service transformer samples were only tested for dissipation factor at 25°C by ASTM Method D924, flash and fire point by ASTM D92, interfacial tension by ASTM Method D971, neutralization number by ASTM Method D974, water content by ASTM Method D1533, and conductivity by ASTM Method D4308.

In addition to field sampling conducted under DTSC oversight, DTSC staff reviewed internal product development testing data provided by Cooper. These data were collected as part of Cooper's ongoing internal testing program prior to entry into the verification/certification agreement. These data provided background information on the technology performance for past virgin lots and were used to develop trends on the fluid's performance in tested transformers for select ASTM parameters. Historical data collected by independent testing facilities under contract with Cooper were also used.

### 1. General Performance

As part of this verification/certification, Envirotemp®FR3™ fluid was tested for select physical, chemical, thermal, and dielectric properties to verify general performance claims listed in Cooper's product specifications. Since standard specifications do not exist for vegetable oil-based dielectric fluids, two ASTM specifications, two International Electrotechnical Commission (IEC) specifications, and one IEEE specification were used to evaluate Envirotemp®FR3™ fluid performance. ASTM D3487 and ASTM D5222 were developed to evaluate the performance of virgin mineral oil-based dielectric fluids and virgin high molecular weight hydrocarbons

(HMWH), respectively. IEEE C57.121 was developed to evaluate the performance of virgin silicone fluids. IEC 1099 and IEC 1203 were developed to evaluate the performance of virgin synthetic organic esters and in-service synthetic organic esters, respectively. These specifications were selected since Cooper claimed the dielectric breakdown for Envirotemp®FR3™ fluid was similar to that of mineral oil, HMWH, silicone and synthetic esters. The physical and chemical properties of Envirotemp®FR3™ fluid were only compared to Cooper specifications since these properties differ due to the nature of the fluid. Data variability reported in this section was calculated at 95% confidence.

### Virgin Product Performance Results

#### *Dielectric Properties (or Dielectric Strength)*

Dielectric breakdown is the common property used to evaluate a dielectric fluid's performance. The dissipation factor varies depending on the chemistry of the different types of dielectric fluids, and therefore these values were only compared to the Cooper specification.

#### Dielectric Breakdown

The minimum and gap dielectric breakdowns indicate the minimum voltage required to cause arcing between two submerged electrodes in a dielectric fluid. A low value may indicate the presence of water, dirt, or other electrically conductive particles in the oil, which may cause damage to the transformer core or windings due to arcing. The minimum dielectric breakdown voltages for virgin Envirotemp®FR3™ samples averaged 45 kilovolts (kV)  $\pm$  1 kV and were higher than the lowest value listed for the four specifications. For the 0.04-inch (1.0 millimeters [mm]) gap dielectric breakdown, sample values averaged 37 kV  $\pm$  3 kV and were higher than the minimum voltage listed for all five specifications.

The impulse dielectric breakdown value is designed to determine the minimum voltage to cause arcing in the fluid under lightning or power surge conditions. The impulse breakdown voltage for all samples averaged 168 kV  $\pm$  4 kV and was higher than the minimum voltage listed for mineral oils under ASTM D3487 of 145 kV. Cooper does not have a specification value for the impulse breakdown voltage but this value typically ranges from 130 kV to 170 kV in virgin product.

#### Dissipation Factor

The dissipation factor is a measure of the dielectric losses to an insulating dielectric fluid (such as oil) when it is exposed to an alternating electric field. For ASTM Method D924, the dissipation factor is determined by passing an alternating electric current through a test cell filled with dielectric fluid and measuring the capacitance with an electronic bridge

circuit. This value is used to control the product quality, and to determine changes in the fluid due to contamination or degradation during use. A low dissipation factor indicates a low dielectric loss and a low contaminant concentration (e.g., dirt, water, or metals).

The dissipation factor measured at 25°C averaged  $0.143\% \pm 0.029\%$ . Two of these samples had dissipation factors, which exceeded the Cooper specification value 0.150%. The dissipation factor measured at 100°C averaged  $2.89\% \pm 0.59\%$  and was greater than three previous sample results, which ranged from 1.4% to 1.9%. Cooper does not routinely test for the dissipation factor at 100°C and therefore has not defined a specification value. The dissipation factor for all samples measured at 25°C and 100°C exceeded the maximum value listed for the ASTM, IEEE and IEC specifications. Split samples, analyzed by Cooper, had a dissipation factor at 25°C of 0.131% and 0.097%, respectively. Past performance testing performed by Doble determined the dissipation factor at 25°C as 0.061%.

#### *Chemical Properties*

##### Neutralization Number

The neutralization number is used as a quality control parameter for lubricating oil. This number is determined by the amount of base required to titrate acidic substances contained in the oil. The acidic substances may be additives or degradation products formed during service, such as oxidation products. When an in-service fluid is analyzed for this property, an increasing neutralization number over time may be an indicator of oil degradation due to oxidation. According to ASTM Method D974, this test cannot be used to predict the corrosiveness of oil under service conditions. There is no general correlation known between the neutralization number and the corrosive tendency of oils toward metals.

The neutralization number was consistent between lots with sample results averaging 0.03 milligrams of potassium hydroxide per gram (mg KOH/g)  $\pm 0.01$  mg KOH/g and met Cooper's, ASTM D3487, IEEE C57.121, and IEC 1099 specifications.

##### Water Content

Water content is used by industry to monitor a dielectric fluid's quality. It is an indicator of possible oil deterioration, which could adversely affect the oil's electrical properties such as dielectric breakdown. This value is based on the relative saturation of the water in the dielectric fluid. The relative saturation is based on the amount of water dissolved in the oil divided by the total amount of water the oil could hold at that temperature. The dielectric strength of oil starts to fall when saturation reaches about 50%. For petroleum based dielectric oils, 50% saturation at room tempera-

ture is 30–35 milligram per kilogram (mg/kg). Synthetic esters and vegetable oil contain about 500–600 mg/kg of water at room temperature and 50% saturation. Water content at or near 50% saturation may indicate the oil has deteriorated and may cause a lower dielectric breakdown voltage, which can damage the transformer core and windings.

Water content measured for all samples including the split samples analyzed by Cooper, averaged 55 parts per million (ppm)  $\pm 5$  ppm. These levels are less than the maximum water content of 75 ppm specified by Cooper and 200 ppm specified by IEC 1099. However, Envirotemp®FR3™ fluid did not meet the ASTM, IEEE, and IEC specifications and was not expected to meet these specifications.

##### Interfacial Tension

The interfacial tension was developed to gauge the presence of hydrophilic compounds in mineral oil. Interfacial tension is a measurement of the amount of force needed to detach a platinum ring from the water-oil interface. In practice, this value has been found to be a good indicator of oil degradation due to oxidation. A lower interfacial tension value indicates a higher hydrophilic or water content in the oil which may adversely affect the oil's dielectric properties.

The interfacial tension value measured for all samples, including split samples analyzed by Cooper, averaged 28 dynes per centimeter (dynes/cm)  $\pm 1$  dynes/cm and met Cooper's specification of  $\geq 18$  dyne/cm. Envirotemp®FR3™ fluid did not meet the ASTM, IEEE, and IEC specifications and was not expected to meet these specifications. These specifications were based on fluids with different chemical properties.

#### *Physical Properties*

##### Pour Point

The pour point indicates the lowest temperature at which oil can be used. The pour point was consistently measured at -18°C for all samples and met the Cooper specification of  $\leq -18^\circ\text{C}$ . The two split samples analyzed by Cooper had pour points at -22°C. Envirotemp®FR3™ fluid did not meet the ASTM, IEEE, and IEC specifications and was not expected to since these specifications were based on fluids with different physical properties.

##### Viscosity

The dielectric fluid's viscosity is used by transformer designers to confirm that the fluid is appropriate for the unit under certain operating conditions. The viscosity of Envirotemp®FR3™ fluid was measured at 0°C, 40°C, and 100°C, and averaged 187.42 centistoke (cSt)  $\pm 0.72$  cSt at 0°C, 32.71 cSt  $\pm 0.11$  cSt at 40°C, and 7.93 cSt  $\pm 0.09$  cSt at 100°C. The two split samples analyzed by Cooper had viscosities of



32.13 cSt and 32.68 cSt at 40°C, and 7.47 cSt and 7.49 cSt at 100°C. Envirotemp®FR3™ fluid met Cooper specifications for viscosity at 40°C and 100°C. Cooper has no specification for viscosity at 0°C. However, Envirotemp®FR3™ fluid did not meet the ASTM, IEEE, and IEC specifications and was not expected to since these specifications were based on fluids with different physical properties.

#### In-service Transformer Fluid Results

The sample results for the dissipation factor at 25°C ranged from 0.120% to 0.196% and met the Cooper and IEC 1203 in-service fluid specifications of  $\leq 1.0\%$  and  $\leq 0.8\%$ , respectively. Historical data for the oldest in-service transformers appeared to gradually increase over time. The relatively small changes in the data over the service life for the oldest transformers indicate the fluid has not degraded with use.

The sample results for the water content ranged from 33 ppm to 98 ppm and met both the Cooper and IEC 1203 specifications of  $\leq 400$  ppm for in-service fluid. The water content after more than one year of service is similar for all four transformers. Again, the historical data for the oldest transformers appears to show a gradual increase over time. The minor increase indicates the fluid has not degraded with use.

Interfacial tension results for the samples ranged from 23 dynes/cm to 26 dynes/cm and met the Cooper specification of  $\geq 18$  dynes/cm. The IEEE C57.121 specification of  $\geq 24$  dynes/cm was also met except for one sample. Although the data for the fluid in the oldest transformers have increased over time, the interfacial tension values have remained above the minimum value specified by Cooper. The current data trend for the oldest transformers indicates the fluid has not degraded with use.

The neutralization number for all four samples ranged from 0.01 mg KOH/g to 0.08 mg KOH/g and met the Cooper and IEC 1203 specifications of  $\leq 2.5$  mg KOH/g and  $\leq 2.0$  mg KOH/g for in-service fluid. Three of the four samples also met the ASTM D3487 specification of  $\leq 0.03$  mg KOH/g. Comparing the values for all four transformers after one year of service, one sample had a value comparable to virgin product. Data collected over the oldest transformers' service lives were well below the maximum value specified by IEC 1203 of 2.0 mg KOH/g. The small fluctuations in the data for the oldest transformers indicate the fluid has not degraded with use.

The conductivity values were converted to volume resistivity (1 picosiemens per meter [pS/m] =  $1.0 \times 10^{14}$  ohms-centimeter [ $\Omega\text{cm}$ ]) for comparison to IEC 1203 criteria. The converted values for the four samples ranged from  $5.9 \times 10^{12}$   $\Omega\text{cm}$  to  $9.4 \times 10^{12}$   $\Omega\text{cm}$  which were above the minimum IEC 1203 volume resistivity of  $6.00 \times 10^{11}$   $\Omega\text{cm}$ .

The historical results for the two oldest transformers indicate that the oil has degraded little over the service period. As the service life of the transformers increases, the interfacial tension will drop as the water content, dissipation factor and neutralization factor rise. The changes in these parameters for Envirotemp®FR3™ fluid would also be expected to be observed in mineral oil transformers.

#### 2. Aquatic Biodegradability

Three virgin Envirotemp®FR3™ samples, one from each lot, were analyzed by U.S. EPA Office of Pollution, Pesticides, and Toxic Substances (OPPTS) 835.3110, *Ready Biodegradability*, using the carbon dioxide (CO<sub>2</sub>) evolution method. Each sample and a replicate were tested in parallel per OPPTS 835.3110. The degree of biodegradation was calculated by dividing the cumulative amount of CO<sub>2</sub> produced by Envirotemp®FR3™ fluid after 28 days by the product of the theoretical total organic content times a conversion factor of 3.67 (ratio of the molecular weight of carbon dioxide [44] to the molecular weight of carbon [12]).

The average biodegradability of Envirotemp®FR3™ fluid after 28 days was  $120\% \pm 33\%$  at 95% confidence. The greater than 100% result may be due to CO<sub>2</sub> leakage from the stock solution apparatus. The removal and replacement of the barium hydroxide (Ba(OH)<sub>2</sub>) absorber every few days may have caused the testing apparatus to leak CO<sub>2</sub> at connectors. The testing apparatus consists of a stoppered flask connected to a series of Ba(OH)<sub>2</sub> absorbers with flexible tubing. A CO<sub>2</sub> leak from the stock solution would result in the calculated amount of CO<sub>2</sub> (difference between the CO<sub>2</sub> evolved from a mixture of the test substance and stock solution, and the CO<sub>2</sub> evolved from the stock solution) for the test substance to be higher and cause the cumulative CO<sub>2</sub> amount to be greater than the theoretical CO<sub>2</sub> amount. One of the reference documents for OPPTS 835.3110 noted a CO<sub>2</sub> production rate of 125% might be possible due to CO<sub>2</sub> leakage from the stock solution apparatus.

A known readily biodegradable material (phthalic acid) was also tested in parallel. The reference stock solution had a biodegradation rate of  $>60\%$  after 14 days and after 28 days which verified that the appropriate test system and bacteria inoculum were used. This test was developed as a screening method for ready biodegradability and should be considered a qualitative measurement. Historical biodegradability results provided by Cooper reported an average biodegradability of 99% in 28 days.

While mineral oil was not tested as part of this study, literature data are available on biodegradability using equivalent methods to OPPTS 835.3110. A U.S.

Army Corp of Engineers document reported the biodegradation rates for conventional mineral oil ranged from 42–49% after 28 days using U.S. EPA Method 560/6-82-003, Aerobic Aquatic Biodegradability. Another study by Conservation of Clean Air and Water-Europe (CONCAWE) reported a ready biodegradation rate for a light naphthenic distillate mineral oil of 28% after 28 days when analyzed by OECD 301B, Sturm test. These results agree with those reported by Thomas Edison Research Center (TERC) which is owned by Cooper Power Systems and provided the historical biodegradability results reported above for Envirotemp®FR3™ fluid. TERC reported average biodegradation rates after 28 days of 30.5% for Univolt 60, a mineral oil-based transformer fluid; 21.3% for R-Temp, a HMWH transformer fluid; and 98% for Envirotemp®FR3™ fluid.

Based on these results, the virgin Envirotemp®FR3™ fluid appears to biodegrade more readily than mineral oil. Although Envirotemp®FR3™ fluid biodegrades, releases to water should be prevented. The product's ability to degrade in the environment is dependent on factors such as geography, pH, temperature, oxygen concentration, dispersal of oil, the presence of other chemicals, soil characteristics, nutrient quantities, and populations of various microorganisms at the location.

### 3. Flammability

The flash point and fire point for virgin and in-service Envirotemp®FR3™ fluid were determined using ASTM Method D92, Cleveland Open Cup test. The flash point was measured to assess the overall flammability of the fluid and determine the presence of volatile or flammable material at elevated temperatures. The fire point was measured to determine the temperature at which the fluid could support combustion. These values were compared to the Cooper specification, ASTM D3487 specification for flash point, and ASTM D5222 specification for fire point. Data variability was calculated at 95% confidence. The virgin product samples had flash and fire points averaging  $328^{\circ}\text{C} \pm 11^{\circ}\text{C}$  and  $363^{\circ}\text{C} \pm 2^{\circ}\text{C}$ , respectively. The in-service transformer samples had flash and fire points ranging from  $328^{\circ}\text{C}$  to  $340^{\circ}\text{C}$  and from  $362^{\circ}\text{C}$  to  $364^{\circ}\text{C}$ , respectively.

The fire point results were slightly higher than those obtained by Underwriters Laboratory (UL) of  $358^{\circ}\text{C}$ . The flash point determined by UL was  $255^{\circ}\text{C}$  and was lower due to the different test method. UL has classified Envirotemp®FR3™ fluid as a dielectric medium and transformer fluid with a fire hazard rating of 4 to 5 which is less hazardous than paraffin oil. Envirotemp®FR3™ fluid is one of five products listed by UL as a Class 4 to 5 dielectric medium and one of three products listed as a Class 4 to 5 transformer fluid.

Envirotemp®FR3™ fluid is also classified as a less flammable transformer fluid by Factory Mutual Research Center (FMRC). Envirotemp®FR3™ fluid is one of ten products classified as a less flammable transformer fluid. The other products classified as less flammable consist of silicone oil-based, HMWH, or vegetable oil-based transformer fluids. FMRC also identified Envirotemp®FR3™ fluid as an alternative to high fire point hydrocarbons, silicone fluids, and synthetic esters or hydrocarbons where fire resistance, improved high temperature operation, and improved cooling are desired.

### 4. Acute Toxicity

Three virgin Envirotemp®FR3™ samples, one from each lot, were analyzed using U.S. EPA method, *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, EPA/600/4-90/027F, August 1993. The test used juvenile pimephales promelas (fathead minnow). Samples were prepared using the wrist-action shaker method to dissolve the oil, in accordance with the "Static Acute Bioassay Procedures for Hazardous Waste Samples" developed by the California Department of Fish and Game, Water Pollution Control Laboratory and specified in the Code of California Regulations, Title 22, Section 66261.24(a)(6). Associated Laboratories also performed a second and parallel set of tests using adult pimephales promelas (fathead minnow) at the same concentrations.

The  $\text{LC}_{50}$  values were less than 250 mg/L for the juvenile fathead minnows and averaged  $317 \text{ mg/L} \pm 169 \text{ mg/L}$  at 95% confidence for the adult fathead minnows. Historical  $\text{LC}_{50}$  results provided by Cooper were greater than 1,000 mg/L, indicating that virgin Envirotemp®FR3™ fluid would pass the California aquatic toxicity criterion. These results indicate that virgin Envirotemp®FR3™ fluid does not pass the toxicity criteria specified under California hazardous waste regulations.

A DTSC fish toxicologist reviewed the verification/certification sample results and historical testing results provided by Cooper to identify the differences which could lead to such conflicting results. The main difference between the two sets of results was the sample preparation method used. Samples with the lower  $\text{LC}_{50}$  results were prepared using the wrist-action shaker method cited in 22CCR Section 66261.24(a)(6). The higher  $\text{LC}_{50}$  results provided by Cooper used an acetone carrier solvent, which made the oil miscible in water per OECD Procedure 203, *Fish Acute Toxicity Test*. Oil samples prepared using the wrist action method stratifies the oil at the top of the tank. Fish swimming through this upper layer of the tank are thought to become coated with the product

and gill exchange will be impaired. Oil samples prepared using the wrist shaker method are thought to provide a more realistic result for conditions which may occur during an environmental release. Samples prepared using the OECD method are thought to provide results that reflect systemic or chemical impacts on fish.

In California, insoluble, viscous waste samples are prepared using the wrist-shaker method and ultrasonic method, and sometimes the solvent carrier method as part of the fish bioassay screening tests for hazardous waste characterization. The preparation method yielding the most conservative LC<sub>50</sub> result is then used to perform the definitive tests. This methodology is required by DTSC Waste Evaluation Unit and overseen by the Department of Health Services Environmental Laboratory Accreditation Program's Aquatic Toxicity Bioassay Section who certifies laboratories performing aquatic toxicity tests for DTSC. Cooper disagrees with DTSC's methodology (see vendor's comment section listed below for Cooper's opinion). The reader should note that this methodology is used to characterize the hazardous characteristics for **waste**. Any statement concerning the hazardous characteristic of the Envirotemp®FR3™ fluid applies to the **spent (waste)** fluid only and is not intended to classify the virgin product.

The average LC<sub>50</sub> for virgin Envirotemp®FR3™ fluid was less than 250 mg/L which indicates the spent Envirotemp®FR3™ fluid might exhibit a hazardous characteristic per 22CCR Section 66261.24(a)(6). This determination is based on a limited set of data and a conservative interpretation of the California hazardous waste characterization regulations. The end-user should characterize their spent Envirotemp®FR3™ fluid at the time of disposal since changes to the oil may occur due to use, storage, or age. End-users should also consult their appropriate local regulatory authority about applicable waste characteristic regulations and available disposal options in their area.

#### 5a. Chemical Composition

The chemical compositions of the virgin and in-service fluids were analyzed by selected AOAC methods, by EPA Method 8270 for SVOCs, and by EPA Method 6010 for metals analysis. The AOAC methods were selected to provide a chemical "fingerprint" for Envirotemp®FR3™ fluid. Data variability was calculated at 95% confidence.

The virgin Envirotemp®FR3™ samples averaged 23.77% ± 0.16% monounsaturated fatty acid, 59.89 ± 0.10% polyunsaturated fatty acids, and 15.66% ± 0.11% saturated fatty acids. These results agree closely with the formulation provided by Cooper. The in-service Envirotemp®FR3™ samples had 22.00% to

23.74% monounsaturated fatty acid, 59.85% to 62.35% polyunsaturated fatty acids, and 15.20% to 16.24% saturated fatty acids, which were also consistent with Cooper's formulation.

AOAC Method 983.15, *Phenolic Antioxidants in Oils, Fats, and Butter Oil*, was used to determine the concentration of seven commonly used antioxidants in food grade oils and fats. The average phenolic antioxidant concentration for the virgin product was 2,787 ppm ± 834 ppm. The in-service transformer samples had antioxidant concentrations between 3,950 ppm and 4,600 ppm.

The polymers and oxidation product values determined by AOAC Method 977.17 are simple indicators used in the food industry to assess the quality of vegetable oil after exposure to heat. If higher values are reported for oil as it is reheated, the difference is assumed to show an increase in non-elution material (compounds not removed using a solvent) that indicates the polar compounds in the oil are degrading. Compared to the average virgin product value of 1.2% ± 0.3%, the in-service fluid samples had values ranging from less than 1.0% to 2.8%. Three of the four samples from in-service transformers had values greater than 1.1% indicating slight degradation with use.

For the 65 standard SVOC compounds analyzed by the HML lab, none were detected in the virgin product samples. Bis-(2-ethylhexyl)phthalate, butyl benzyl phthalate, and di-n-butyl phthalate were detected in the in-service transformer samples. These compounds were suspected to be contaminants introduced from the sampling equipment and DI water used. Other tentatively identified compounds were various sterols normally found in vegetable oils.

Barium and zinc were detected in the virgin product samples at 26 mg/kg and 36 mg/kg, and at 11 mg/kg and 24 mg/kg, respectively. Barium and zinc were also detected in two in-service transformer samples at 25 mg/kg and 27 mg/kg, and at 12 mg/kg to 13 mg/kg, respectively. Cadmium and molybdenum were detected in one in-service transformer sample at 0.42 mg/kg and 2.6 mg/kg, respectively. The barium and zinc might have been introduced during the processing of the basestock oil, degassing of the oil, or storage in the finishing tank.

#### 5b. Worker Health and Safety Aspects

DTSC reviewed material safety data sheets (MSDSs) and information on a transformer unit and its operation to determine potential hazards and regulations associated with Envirotemp®FR3™ usage. These hazards were then compared to potential hazards associated with select mineral oil-based and silicone oil-based transformer fluids. The discussion of the potential hazards and regulations below is not



considered comprehensive. The end-user is still responsible for identifying potential hazards and implementing applicable regulations associated with worker health and safety.

The Envirotemp®FR3™ dielectric insulating fluid is composed >98.5% vegetable oil and <1.5% additives (e.g., antioxidants and color). The antioxidants used in this product are not listed as a hazardous material and have been cleared for use as a food grade antioxidant. Although the components of Envirotemp®FR3™ fluid are food-grade, this product was not intended for human consumption and should not be used as a food product.

According to the Envirotemp®FR3™ material safety data sheet (MSDS), this product is also not considered a hazardous substance as defined under Title 8, California Code of Regulations, Section 5194, Hazard Communications. However, this does not relieve the end-user who uses this product from providing workers with information and training necessary to handle Envirotemp®FR3™ fluid safely. Workers should review the MSDS and be familiar with the information concerning first aid procedures, physical properties, personal protective equipment (PPE), respiratory protection, and slip hazards. Workers should wash skin that has contacted the product with soap and water. For eye contact, the eyes should be flushed with water. The primary physical property workers should be aware of is the product's flash point of greater than 300°C. In the case of an Envirotemp®FR3™ spills, employees should be aware of the increased slip hazard in the affected area due to the product.

Before working with Envirotemp®FR3™ fluid, employees should ensure the work area has adequate ventilation, and the appropriate respiratory protection and protective clothing are selected. When working with hot Envirotemp®FR3™ fluid, workers should don neoprene gloves, rubber boots and aprons. Respiratory protection should only be worn if oil mists or dusts contaminated with oil are detected at concentrations equal to or exceeding the permissible exposure limit (PEL). Occupational Safety and Health Administration (OSHA) has set the PEL for vegetable oil mist as a nuisance particulate at 15 milligram per cubic meter ( $\text{mg}/\text{m}^3$ ) and 5  $\text{mg}/\text{m}^3$  for respiratory protection for an 8-hour time-weighted average (TWA) exposure. In California, the nuisance particulate PEL is 10  $\text{mg}/\text{m}^3$ . The end-user should consult the appropriate regulatory authority about applicable nuisance particulate PELs used in their area.

If the transformer is located in a poorly ventilated area, then workers should use appropriate engineering controls to ventilate the area. Based on the MSDS information on Envirotemp®FR3™'s antioxidants, the Envirotemp®FR3™ fluid may produce carbon mon-

oxide, carbon dioxide, nitrogen oxides, and other toxic compounds when the antioxidants thermally decompose. Mineral oil-based and silicone oil-based transformer fluids may also thermally decompose and produce fumes, smoke, carbon monoxide, aldehydes and other products. For some mineral oil-based transformer fluids, sulfur oxides are also listed as a possible decomposition product while silicon dioxide is listed for some silicone oil-based fluids. No data are available on the composition of emissions from transformers in general.

When comparing the PPE requirements for handling Envirotemp®FR3™ fluid to select mineral oil-based transformer fluids, the requirements were found to be similar. This comparison is based on MSDS information for select mineral oil-based transformer fluids obtained from the Vermont Safety Information Resources, Inc. (SIRI) MSDS archive. Respiratory protection for the mineral oil-based transformer fluids is required at a lower nuisance particulate OSHA PEL of 5  $\text{mg}/\text{m}^3$  for an 8-hour TWA exposure compared to Envirotemp®FR3™ fluid. For select silicone oil-based transformer fluids found in the Vermont SIRI MSDS archive, workers are advised to don impervious gloves and chemical goggles when handling the fluid.

Occupational exposure to transformer fluid is limited and associated to infrequent activities such as filling, draining, or sampling of transformers. These activities are not likely to generate a mist or aerosol at concentrations approaching the PEL. Potential hazards associated with filling or draining the transformer include slipping on work surfaces where the product was spilled, or splashing of the material into the eyes or onto the skin. Potential hazards associated with sampling the transformer include coming in contact with extremely hot oil, potential electrical arcing from the transformer, or slipping hazards due to spilled Envirotemp®FR3™ fluid on the floor.

MSDS information for three silicone transformer fluids identified as less-flammable transformer oils by UL and FMRC were reviewed along with several mineral oil-based transformer fluids listed in the Vermont SIRI MSDS Archive. Health and safety information on the components listed on the MSDSs were compared to information listed in the 2000 edition of Sax's Dangerous Properties of Industrial Materials. The primary component of the mineral oil-based transformer fluid was a hydrotreated light naphthenic petroleum distillate (Chemical Abstract service [CAS] No. 64742-53-6) ranging from 30–100% which was identified as an International Agency for Research on Cancer (IARC) confirmed carcinogen based on experimental data for animals. The primary ingredient of the silicone oil-based transformer fluids was dimethyl polysiloxane (CAS No. 63148-62-9)

listed at 100% and identified as a combustible liquid, a teratogen, and the cause of reproductive effects based on experimental data on animals.

5c. Estimated Cost of Envirotemp®FR3™ fluid versus Mineral Oil

An average life for a transformer using Envirotemp®FR3™ fluid is estimated to be 20 years. A new Cooper transformer unit containing Envirotemp®FR3™ fluid costs approximately 1.2–1.3 times more than a comparable new Cooper mineral oil transformer. The price of the Envirotemp®FR3™ fluid is approximately \$9–10 per gallon depending on the volume purchased. The fluid is available in 5-gallon containers, 55-gallon drums, 200-gallon totes, 6,000-gallon tanker trucks, or by the rail car. Prices for mineral oil typically range from \$2 to \$4 per gallon depending on quantity. Monitoring costs will vary depending on the maintenance program the purchaser has in place. The waste characterization cost for a transformer using Envirotemp®FR3™ fluid or mineral oil are anticipated to be approximately the same except for mineral oil suspected to contain PCBs where the costs will be higher. The disposal cost for mineral oil and Envirotemp®FR3™ fluid are assumed to be comparable since data are not available on the waste characteristics of Envirotemp®FR3™ fluid after 20 years of use.

For a retrofilled transformer, no additional costs due to modifications on the transformer unit are incurred for using Envirotemp®FR3™ fluid. The costs associated with draining and disposing of the used oil are expected to be the same for both mineral oil and Envirotemp®FR3™ fluid. The cost of flushing and filling the transformer with Envirotemp®FR3™ fluid versus mineral oil will be higher and range from approximately \$5 to \$8 per gallon. The accelerated life testing results performed by Cooper indicate the paper insulation around the windings showed less degradation for the Envirotemp®FR3™ transformers than the identical mineral oil transformers. Less degradation of the paper insulation per this test indicates the Envirotemp®FR3™ transformers may have a longer service life.

6. Vendor's Comment

Cooper Power Systems provided the following information as part of the May 2002 Environmental Technology Verification report. The purpose of this section was to provide the vendor with the opportunity to share their comments on their environmental technology verification report. This information does not reflect agreement or approval by Cal/EPA.

Vendor's Comment:

*The aquatic toxicity test performed by the California EPA is not in accordance with the recommended sample preparation method for insoluble materials*

*cited in the California Code of Regulations. Rather than using the appropriate solvent blending method for insoluble materials, they instead created an emulsion by extreme blending (several hours) of the vegetable oil based Envirotemp®FR3™ fluid with water. The resulting heavy emulsion produced is a physical hazard to fish. This prevented any evaluation of possible toxicological effects of the product.*

*Testing of acute aquatic toxicity on Envirotemp®FR3™ fluid was performed by an independent laboratory using the appropriate sample preparation method for insoluble materials. The tests resulted in a zero mortality of the trout fry throughout the test duration (96 hours).*

*We (Cooper) believe that it is essential that the acute aquatic toxicity test method be used for its stated purpose, the determination of relative systemic toxicity, and not misused to test physical hazard. Our environmental claim involving acute aquatic toxicity was limited to relative toxicity. Cooper Power Systems stands by its Verification Claim #4 submitted to the California EPA that Envirotemp®FR3™ dielectric coolant is not toxic to trout fry.*

**Certification Statement**

Under the authority of Health and Safety Code section 25200.1.5, the Envirotemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid (Envirotemp®FR3™) is hereby certified as a pollution prevention technology subject to the specific conditions including the limitations/disclaimer set forth in the Certification Notice as published in the California Regulatory Notice Register on November 29, 2002, Register No. 2002, Volume No. 48-Z. The technology is certified for use as a dielectric insulating fluid in transformers and electrical devices. Field test results show that the Envirotemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid is a readily biodegradable, vegetable oil-based dielectric fluid with a flash and fire point above 300°C. The product has dielectric breakdown voltages comparable to mineral oils, silicone oils, synthetic esters, and high molecular weight hydrocarbons. Envirotemp®FR3™ samples from in-service transformers had flash and fire points above 300°C. Based on limited results performed on virgin product, the spent Envirotemp®FR3™ fluid may exhibit a hazardous characteristic per California's hazardous waste regulations. The end-user must characterize the spent Envirotemp®FR3™ fluid at the time of disposal since changes may occur to the oil due to use, storage, or age.

**Limitations of Certification**

DTSC makes no express or implied warranties as to the performance of the Envirotemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid. Nor does DTSC warrant that the Envirotemp®FR3™ Vegetable Oil-

Based Insulating Dielectric Fluid is free from any defects in workmanship or materials caused by negligence, misuse, accident or other causes. However, DTSC believes that the Envirottemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid can be used in accordance with the conditions specified in this certification notice to achieve the results specified herein.

Use of the certified technology is limited to transformers and electrical devices as an insulating dielectric fluid. The product must also meet the requirements specified by Underwriters Laboratories (UL) for dielectric and transformer fluids, the Factory Mutual Research Center (FMRC) for a less flammable transformer fluid, and transformer installation requirements specified under the National Electrical Code (NEC).

### Specific Conditions

1. **Applicability.** This certification is limited to use of the Envirottemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid for use as a liquid dielectric coolant in transformers and electrical devices.
2. **Uses for Transformers and Electrical Devices.** This certification is limited to use of the Envirottemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid in transformers and electrical devices as an insulating dielectric fluid. Use of Envirottemp®FR3™ fluid does not automatically classify the transformers as less flammable per the Factory Mutual Research Center definition. The user is responsible for assessing whether existing transformers where Envirottemp®FR3™ fluid will be substituted for the original dielectric fluid (retrofilling) meets current NEC requirements.
3. **Compliance with the Oil Spill Pollution Prevention and Management Requirements.** Use of the Envirottemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid must be in compliance with all federal, state, and local regulations which regulate the reporting of oil releases to the soil or water and their subsequent clean-up.
4. **Compliance with Hazardous Waste Classification and Disposal Requirements.** Prior to disposal, spent Envirottemp®FR3™ fluid and waste material generated from the clean-up of Envirottemp®FR3™ spills must be characterized per 22CCR Section 66261.20 and managed accordingly. Spent Envirottemp®FR3™ fluid or waste material from spills shall be tested for polychlorinated biphenyls (PCBs) if the transformer in question formerly contained a PCB laden oil. The disposal of virgin and spent Envirottemp®FR3™ fluid must be in compliance with all federal, state, and local regulations.
5. **Compliance with Used Oil Management Requirements.** The user shall be responsible for determining if spent Envirottemp®FR3™ fluid meets the definition of a used oil per 22CCR Section 66279.1(d), contains no more than 5 ppm of PCBs, and has a total halogen content of less than 1,000 ppm. If spent Envirottemp®FR3™ fluid meets these criteria, then it must be managed as a used oil and sent to a certified California waste oil recycler. If the spent Envirottemp®FR3™ fluid does not meet the used oil definition per 22CCR Section 66279.1(d) but meets the definition of a hazardous waste per 22CCR Section 66261.20, then the spent oil must be managed as a hazardous waste.
6. **Compliance with Worker Health and Safety Laws.** Use of the Envirottemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid in transformers must be in compliance with all federal, state and local regulations relating to the protection of worker health and safety. In California these include, but are not limited to, Cal-OSHA and OSHA requirements.
7. **Personnel Training.** Operators with knowledge and proper training in transformer sampling are required to collect samples from in-service transformers. Training includes but is not limited to safe operation and maintenance of the transformers, and knowledge of safe work practices and operating procedures for high voltage electrical equipment.
8. **Compliance with Applicable Federal, State, Local Regulations.** The user shall comply with all applicable federal, state, and local regulatory requirements.
9. **Modifications and Amendments at the Request of the Applicant.** Modifications and amendments to this certification may be requested by the applicant and shall be subject to approval by DTSC.
10. **Certification Reference.** The holder of a valid hazardous waste environmental technology certification is authorized to use the certification seal (California Registered Service Mark Number 046720) and shall cite the certification number and date of issuance in conjunction with the certification seal whenever it is used. When providing information on the certification to the user of the technology or another interested party, the holder of a hazardous waste environmental technology certification shall at a minimum provide the full text of the final certification decision as published in the California Regulatory Notice Register.
11. **The user of the certified technology shall maintain adequate records to document compliance with the conditions of certification.** The records shall be maintained onsite and available for inspection.



### Regulatory Implications

This certification is for the specific claims, conditions, and limitations outlined in this notice, and are based on DTSC's evaluation of the technology's performance. The Certification does not change the regulatory status of Envirotemp®FR3™ Vegetable Oil-Based Insulating Dielectric Fluid; it should, however, facilitate and encourage the acceptance of this technology as a pollution prevention alternative to transformer oils containing PCBs, mineral oils, and silicone oils.

Use of this technology as a pollution prevention alternative does not require a hazardous waste management permit issued by DTSC. However use of the technology may be subject to regulation by other state and local agencies. For each specific application, the end-user must ensure compliance with all applicable regulations and standards established by other state and local agencies.

This Certification is issued under the California Environmental Technology Certification Program, and is therefore subject to the conditions set out in the regulations, such as the duration of the Certification, the continued monitoring and oversight requirements, and the procedures for certification amendments, including decertification.

By accepting this Certification, the manufacturer assumes, for the duration of the Certification, responsibility for maintaining the quality of the manufactured materials and equipment at a level equal or better than was provided to obtain this Certification and agrees to be subject to quality monitoring by DTSC as required by the law, under which this Certification is granted.

### Duration of Certification

This certification will remain in effect for three years from the date of issuance, unless it is amended or revoked for cause.

## DEPARTMENT OF TOXIC SUBSTANCES CONTROL

### HOUSEHOLD HAZARDOUS WASTE UNIT STATE REGULATORY PROGRAMS DIVISION PUBLIC NOTICE FOR VARIANCE ISSUANCE

On October 31, 2002, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued an agricultural oil collection variance to Nevada County. Authority for this action is contained in Health and Safety Code, section 25143. The variance authorizes five one-day collections at the listed sites for the acceptance of up to 55 gallons of used oil from local growers to be completed by July 31, 2003.

15057 Colfax Highway, Grass Valley

November 5, 2002

15310 Spenceville Road, Penn Valley

November 21, 2002

11992 Plaza Drive, Grass Valley

date to be determined

10106 Combie Road, Auburn

date to be determined

10057 Reservoir Street, North San Juan

date to be determined

Standards exempted are contained in Health and Safety Code, section 25201. Transported waste is shipped in accordance with federal Department of Transportation, California Highway Patrol, and California Vehicle Code requirements. For additional information contact Lee Halverson at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

#### BOARD OF FORESTRY AND FIRE PROTECTION Hardwood 2002

This rulemaking emphasizes the need to consider hardwood retention when preparing timber harvest plans in order to provide for the needs of wildlife.

Title 14

California Code of Regulations

AMEND: 932.9, 952.9

Filed 11/18/02

Effective 01/01/03

Agency Contact: James L. Mote (916) 653-9418

#### BOARD OF FORESTRY AND FIRE PROTECTION Stocking Standards—2002

This regulatory action encourages landowners to retain snags and large old trees for wildlife use and gives credit to landowners who do so.

Title 14

California Code of Regulations

AMEND: 895.1, 912.7, 913.1, 913.2, 932.7, 933.1, 933.2, 952.7, 953.1, 953.2

Filed 11/14/02  
 Effective 12/14/02  
 Agency Contact: James L. Mote (916) 653-9418

**DEPARTMENT OF CONSERVATION**  
**SB 528 Quality Glass Incentive Payment**

This filing is the readoption of emergency regulations for quality glass incentive payments. (Prior OAL files 02-0315-01E and 02-0711-02EE.)

Title 14  
 California Code of Regulations  
 AMEND: 2090, 2105, 2420, 2425, 2530 and 2690  
 renumbered to 2850  
 Filed 11/18/02  
 Effective 11/20/02  
 Agency Contact: Marty Nold (916) 327-2761

**DEPARTMENT OF INSURANCE**  
**Valuation of Life Insurance Policies**

This rulemaking codifies in regulation Department of Insurance Bulletin Number 2000-02 which has been in effect since July 2000 pursuant to Insurance Code section 10489.94 (Chapter 868, Statutes of 1999, SB 374) which allowed the Commissioner to issue a bulletin with the force of regulation to establish minimum standards for valuation of specified life insurance policies. The Bulletin, which is to be generally based on the provisions of the National Association of Insurance Commissioners (NAIC) Model Regulation concerning valuation of life insurance, as adopted in March 1999, must be replaced by regulations no later than December 31, 2002.

Title 10  
 California Code of Regulations  
 ADOPT: 2542, 2542.1, 2542.2, 2542.3, 2542.4, 2542.5, 2542.6, 2542.7, and 2542.8  
 Filed 11/19/02  
 Effective 01/01/03  
 Agency Contact: George Teekell (415) 538-4390

**DEPARTMENT OF INSURANCE**  
**Pre-Licensing and Continuing Education**

Senate Bill No. 63 (ch. 174, stats. 2001) added subdivision (f) to section 1749 of the Insurance Code. The new subdivision (f) provides that an applicant for a fire and casualty broker-agent license who is licensed as a personal lines agent shall complete a minimum of 20 hours prelicensing study as a prerequisite and that the "...curriculum for satisfying this requirement shall be approved by a curriculum board and submitted to the commissioner for final approval. . . ." This emergency regulatory action requires that any course taken to satisfy this requirement shall be in a classroom and shall use the general subject matter derived from the curriculum specified in the regulation.

Title 10  
 California Code of Regulations  
 ADOPT: 2187.4  
 Filed 11/18/02  
 Effective 11/18/02  
 Agency Contact: Natasha R. Ray (916) 492-3559

**DEPARTMENT OF TOXIC SUBSTANCES**  
**CONTROL**

**Phase I Environmental Site Assessments (Schools)**

The Department of Toxic Substances Control is amending section 69103(a)(5) entitled "Guidance on Environmental Data Verification and Data Validation," replacing the existing website address with a new one for the United States Environmental Protection Agency, Quality Staff.

Title 22  
 California Code of Regulations  
 AMEND: 69103  
 Filed 11/18/02  
 Effective 11/18/02  
 Agency Contact:  
 Bonnie Amoruso (916) 322-2833

**EMPLOYMENT TRAINING PANEL**

**Small Business Owners**

In this emergency regulatory action, the Employment Training Panel provides that a proposal to train employees of a small business may include training for the owner of the business provided that specified criteria are met.

Title 22  
 California Code of Regulations  
 ADOPT: 4407.1  
 Filed 11/18/02  
 Effective 11/18/02  
 Agency Contact: Deanna Fong (916) 327-5422

**OCCUPATIONAL SAFETY AND HEALTH**  
**STANDARDS BOARD**

**Electronic News Gathering**

The existing High Voltage Electrical Safety Orders in title 8 of the California Code of Regulations do not specifically address the hazards associated with the operation of electronic news gathering (ENG) vehicles equipped with elevating masts and/or antennas capable of being extended into or near high voltage power lines. This regulatory action adopts safety standards for the operation of electronic news gathering vehicles. This regulatory action was the direct result of a petition received from five southern California labor union locals following a microwave mast accident that occurred on May 22, 2000 when the microwave mast of an ENG vehicle was inadvertently extended into overhead power lines. Other accidents of a similar nature have occurred recently as evidenced by OSHA accident inspection reports. Such accidents usually

result in severe burns, dismemberment, or death to the ENG vehicle crew and can present a danger to nearby pedestrians.

Title 8  
California Code of Regulations  
ADOPT: 2980, 2981, 2982, 2983  
Filed 11/18/02  
Effective 12/18/02  
Agency Contact: Marley Hart (916) 274-5721

#### **PUBLIC EMPLOYEES' RETIREMENT SYSTEM Establishment and Status of Plan**

This regulatory action clarifies the inclusion of school employers in the replacement benefits plan which provides benefits to CalPers members whose retirement allowances are limited by Internal Revenue Code section 415. Pursuant to Government Code section 21760, this action is exempt from OAL review.

Title 2  
California Code of Regulations  
AMEND: 589, 589.3, 589.4, 589.5, 589.9  
Filed 11/18/02  
Effective 12/18/02  
Agency Contact: Joe Parilo (916) 326-3484

#### **STATE LANDS COMMISSION Ballast Water Management and Control Fees**

This Certificate of Compliance completes the action reducing the Ballast Water Management and Control Program fee from \$400 to \$200 per voyage for vessels making voyages to California ports from ports outside the defined "EEZ" or "exclusive economic zone," extending 200 miles from the baseline of the territorial sea of the United States seaward.

Title 2  
California Code of Regulations  
AMEND: 2271  
Filed 11/14/02  
Effective 11/14/02  
Agency Contact:  
Livin D. Prabhu (562) 499-6312

#### **TECHNOLOGY, TRADE AND COMMERCE AGENCY Loan Guarantee Terms**

These regulations, deemed to be emergency regulations pursuant to Corporations Code section 14024, increase the amount of loan guarantee fees from 2% to 3 % of the principal amount guaranteed for loans over \$150,000, and establish a new loan guarantee servicing fee of .5% of the principal amount guaranteed for loans with a term greater than one year.

Title 10  
California Code of Regulations  
AMEND: 5002

Filed 11/14/02  
Effective 11/14/02  
Agency Contact: Terri Toohey (916) 324-3787

### **CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN JULY 17, 2002 TO NOVEMBER 20, 2002**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

#### **Title 1**

10/29/02 AMEND: 1, 100

#### **Title 2**

11/18/02 AMEND: 589, 589.3, 589.4, 589.5, 589.9  
11/14/02 AMEND: 2271

11/04/02 ADOPT: 1859.70.1, 1859.71.3,  
1859.78.5, 1859.78.6, 1859.78.7,  
1859.93.1, 1859.120, 1859.121,  
1859.122, 1859.122.1, 1859.122.2,  
1859.123, 1859.124, 1859.124.1,  
1859.125, 1859.125.1, 1859.126,  
1859.127, 1859.128, 1859.129, 1859.130,  
1859.140, 1859.141, 1859

11/04/02 ADOPT: 549.95

10/31/02 AMEND: 51000

10/31/02 ADOPT: 18531.7

10/24/02 ADOPT: 2351

10/09/02 AMEND: 18539.2

10/04/02 AMEND: 1859.81, 1859.91

10/04/02 ADOPT: 18544

09/16/02 AMEND: 1859.79, 1859.79.3, 1859.81.1,  
1859.83, 1859.107

09/12/02 AMEND: 18110, 18401, 18404.1, 18451,  
18540, 18705.4, 18997

09/09/02 AMEND: 1859.92, 1859.104, 1859.105,  
1859.107

08/19/02 ADOPT: 18535

08/14/02 ADOPT: 56, 56.1, 56.2, 56.3, 56.4, 56.5,  
56.6, 56.7, 56.8

08/12/02 ADOPT: 57.1, 57.2, 57.3, 57.4

08/12/02 ADOPT: 1859.71.2, 1859.78.4, 1859.108  
AMEND: 1859.50, 1859.70, 1859.72,  
1859.73.1, 1859.73.2, 1859.74.1,  
1859.75.1, 1859.76, 1859.78.2,  
1859.79.3, 1859.81, 1859.81.1, 1859.82,  
1859.100, 1859.101, 1859.102, 1859.107

08/07/02 ADOPT: 59000



07/31/02 ADOPT: 18450.1  
07/25/02 AMEND: 2970

**Title 3**

11/12/02 ADOPT: 4600, 4601, 4602, 4603  
11/07/02 AMEND: 6000, 6710  
11/01/02 AMEND: 3417(b)  
10/28/02 AMEND: 3604(b)  
10/24/02 AMEND: 1380.19, 1430.10, 1430.12,  
1430.14, 1430.26, 1430.27, 1430.32,  
1430.45, 1430.50, 1430.51  
10/17/02 ADOPT: 3650, 3651, 3652, 3653, 3654,  
3655, 3656, 3657, 3658, 3659, 3660,  
3661, 3662, 3663, 3663.5  
10/09/02 AMEND: 1380.19(h), 1420.10, 1442.7  
REPEAL: 1420.9, 1442.10  
09/19/02 ADOPT: 6450, 6450.1, 6450.2, 6450.3,  
6784 AMEND: 6000 REPEAL: 6450,  
6450.1, 6450.2, 6450.3, 6784  
09/10/02 AMEND: 3700(c)  
09/09/02 AMEND: 6414  
08/30/02 AMEND: 3423(b)  
08/29/02 AMEND: 1408.3  
08/19/02 ADOPT: 3664, 3665, 3666, 3667, 3668,  
3669  
08/14/02 AMEND: 6172, 6192, 6200, 6252  
08/13/02 AMEND: 3423(b)  
07/25/02 AMEND: 3423(b)  
07/23/02 ADOPT: 7015  
07/18/02 AMEND: 6000, 6710

**Title 4**

10/15/02 ADOPT: 1867  
10/07/02 ADOPT: 12300, 12301, 12302, 12303,  
12304, 12305, 12306, 12307, 12308  
09/12/02 ADOPT: 8110, 8111, 8112, 8113, 8114,  
8115, 8116, 8117, 8118, 8119, 8120,  
8121, 8122, 8123, 8124, 8125  
09/03/02 AMEND: 1107  
08/15/02 ADOPT: 4144  
08/13/02 AMEND: 7000, 7001, 7002, 7003,  
7003.5, 7004, 7005, 7006, 7007, 7008,  
7009, 7010, 7011, 7012, 7013, 7013.1,  
7013.5, 7014, 7015, 7016, 7017  
08/08/02 AMEND: 8072, 8074  
07/30/02 AMEND: 2050

**Title 5**

10/21/02 AMEND: 18301  
10/17/02 ADOPT: 80434 AMEND: 80001  
08/15/02 ADOPT: 11980, 11981, 11982, 11983,  
11984, 11985,  
08/13/02 ADOPT: 11969.10 REPEAL: 11969.9  
07/31/02 AMEND: 30950, 30951.1, 30952, 30953,  
30954, 30955, 30956, 30957, 30958,  
30959

07/30/02 ADOPT: 11969.1, 11969.2, 11969.3,  
11969.4, 11969.5, 11969.6, 11969.7,  
11969.8, 11969.9  
07/29/02 AMEND: 3051.16, 3065

**Title 8**

11/18/02 ADOPT: 2980, 2981, 2982, 2983  
10/01/02 AMEND: 3457(b)  
09/25/02 AMEND: 451, 527  
09/19/02 AMEND: 14004, 14005  
09/12/02 AMEND: 1671.2  
09/09/02 ADOPT: 13635.1, 13655, 13656, 13657,  
13658, 13659 AMEND: 13630, 13631,  
13632, 13633, 13634, 13635, 13637,  
13638, 13639, 13640, 13641, 13642,  
13643, 13644, 13645, 13646, 13647,  
13648, 13649, 13650, 13651, 13652,  
13653, 13654  
09/03/02 ADOPT: 20299  
08/26/02 ADOPT: 340.40, 340.41, 340.42, 340.43,  
340.44, 340.45, 340.46, 340.47, 340.48,  
340.49, 340.50, 340.51, 340.52  
08/05/02 AMEND: 3362  
07/31/02 AMEND: 4799  
07/30/02 ADOPT: 290.0, 290.1, 291.0, 291.1,  
291.2, 291.3, 291.4, 291.5, 292.0, 293.0,  
294.0, 295.0

**Title 9**

07/31/02 ADOPT: 9851, 9874 AMEND: 9800,  
9846, 9852, 9854, 9856, 9858, 9867,  
9876, 9884, 9886 REPEAL: 9857

**Title 10**

11/19/02 ADOPT: 2542, 2542.1, 2542.2, 2542.3,  
2542.4, 2542.5, 2542.6, 2542.7, and  
2542.8  
11/18/02 ADOPT: 2187.4  
11/14/02 AMEND: 5002  
11/07/02 ADOPT: 2193, 2193.1, 2193.2 2193.3  
11/04/02 ADOPT: 2698.99  
10/31/02 ADOPT: 2632.13  
10/16/02 ADOPT: 2660 AMEND: 2646.2, 2648.4,  
2651.1, 2652.5, 2655.1, 2655.5, 2655.6,  
2655.10, 2656.1, 2656.2, 2656.3, 2656.4,  
2657.2, 2658.1, 2659.1, 2661.3, 2697.3  
09/25/02 AMEND: 250.9.1(a), 250.12(a), 250.51,  
350.60(a), 260.001, 260.100.1,  
260.100.3, 260.102.4(b), 260.102.8(b),  
260.102.16, 260.103, 260.105.28,  
260.105.33, 260.111, 260.112, 260.113,  
260.121, 260.131, 260.140.71.2,  
260.140.87(e), 260.140.110.2, 260.140.11  
09/25/02 ADOPT: 2698.90, 2698.91  
09/19/02 AMEND: 2851, 2851.1  
08/30/02 AMEND: 5101  
08/29/02 AMEND: 2698.200, 2698.201, 2698.301,  
2698.302

08/28/02 ADOPT: 2278, 2278, 2278.1, 2278.2,  
2278.3, 2278.4, 2278.5  
08/28/02 AMEND: 2698.73  
08/27/02 AMEND: 2632.5(d)(11)  
08/20/02 ADOPT: 1729, 1741.5, 1950.302  
AMEND: 1741.5  
08/19/02 AMEND: 2130.3  
08/15/02 ADOPT: 5480, 5480.1, 5480.2, 5480.3,  
5480.4, 5480.5, 5480.6, 5480.7, 5480.8  
08/12/02 AMEND: 2318.6, 2353.1  
08/12/02 AMEND: 2318.6  
08/05/02 REPEAL: 310.100.1

**Title 11**

10/10/02 ADOPT: 435, 436, 437, 438, 439, 440,  
441, 442, 443, 444, 445, 446, 447, 448,  
449, 450, 451, 452, 453, 454, 455, 456,  
457, 458, 459, 460, 461, 462, 463, 464,  
465, 466, 467, 468, 469, 470, 471, 472,  
473, 474, 475, 476, 477, 478, 479, 480,  
481, 482, 483, 48  
10/07/02 ADOPT: 1012 AMEND: 1001, 1004,  
1005, PAM D-13 REPEAL: former 1005  
09/18/02 ADOPT: 61.8  
08/29/02 AMEND: 3000, 3001, 3003, 3007, 3008  
08/27/02 AMEND: 1070, 1082  
08/13/02 AMEND: 1005

**Title 13**

11/04/02 ADOPT: 225.00, 225.03, 225.06, 225.09,  
225.12, 225.15, 225.18, 225.21, 225.24,  
225.27, 226.30, 225.33, 225.36, 225.39,  
225.41, 225.45, 225.48, 225.51, 225.54,  
225.57, 225.60, 225.63, 225.66, 225.69,  
225.72, and related forms  
10/18/02 AMEND: 1956.8  
09/16/02 AMEND: 1960.1, 1960.5, 1961, 1962,  
07/25/02 AMEND: 422.01  
07/22/02 ADOPT: 2444.2 AMEND: 2111, 2112,  
2139, 2140, 2147, 2440, 2441, 2442,  
2443.1, 2443.2, 2443.3, 2444, 2445.1,  
2445.2, 2446

**Title 13, 17**

09/12/02 ADOPT: 1969, 60060.1, 60060.2,  
60060.3, 60060.4, 60060.5, 60060.6,  
60060.7

**Title 14**

11/18/02 AMEND: 932.9, 952.9  
11/18/02 AMEND: 2090, 2105, 2420, 2425, 2530  
and 2690 renumbered to 2850  
11/14/02 AMEND: 895.1, 912.7, 913.1, 913.2,  
932.7, 933.1, 933.2, 952.7, 953.1, 953.2  
11/07/02 ADOPT: 749.2  
11/07/02 AMEND: 7.50(b)(5)(E), 7.50(b)(156)(H)  
10/28/02 ADOPT: 4971  
10/28/02 AMEND: 1058.5

10/24/02 ADOPT: 17211, 17211.1, 17211.2,  
17211.3, 17211.4, 17211.5, 17211.6,  
17211.7, 17211.8, 17211.9  
10/21/02 AMEND: 163, 163.5, 164  
10/15/02 AMEND: 2030  
10/09/02 AMEND: 502, 507(c)  
10/09/02 ADOPT: 819.06, 819.07 AMEND:  
815.03, 815.05, 817.02, 817.03, 818.02,  
818.03, 819, 819.01, 819.02.8, 19.03,  
819.04, 819.05  
10/08/02 AMEND: 2135  
10/03/02 ADOPT: 3810, 3811, 3812, 3813, 3814,  
3815, 3816, 3817  
10/03/02 AMEND: 3502  
10/01/02 ADOPT: 3940, 3941, 3942, 3943, 3944,  
3945, 3946, 3947, 3948  
10/01/02 AMEND: 3650, 3652, 3653, 3655, 3656,  
3658  
09/30/02 AMEND: 3901, 3909, 3910  
09/30/02 AMEND: 17400, 17402, 17402.5  
09/19/02 AMEND: 3626, 3627, 3628  
09/18/02 AMEND: 300(a) REPEAL: 502.1  
09/12/02 ADOPT: 105.5 REPEAL: 195  
09/12/02 AMEND: 120.3  
09/09/02 AMEND: 550, 551, 552  
09/09/02 ADOPT: 712  
09/04/02 ADOPT: 104.1  
08/28/02 ADOPT: 786.7, 786.8 AMEND: 786.0,  
786.1, 786.2, 786.3, 786.4, 786.5, 786.6  
08/26/02 ADOPT: 18090.0, 18090.1, 18090.2,  
18090.3, 18091.1, 18092.0, 18093.0,  
18093.1, 18094.0 AMEND: 18011  
08/21/02 AMEND: 7.50 (b)(212)  
08/13/02 ADOPT: 844.3, 844.4, 844.5 AMEND:  
790, 840, 840.1, 841, 842, 843, 843.1,  
843.2, 843.3, 843.4, 843.6, 843.7, 843.8,  
843.9, 844, 844.1, 844.2, 844.6, 844.7,  
845, 845.1, and 845.2  
08/12/02 ADOPT: 150.02, 150.04  
08/09/02 AMEND: 670.2  
08/06/02 AMEND: 28.59  
07/31/02 ADOPT: 50.00, 50.01, 50.02, 50.03,  
51.00, 51.01, 51.02, 51.04, 51.05, 155.01,  
155.05, 155.10 AMEND: 109  
07/25/02 ADOPT: 18085, 18086, 18087, 18088  
AMEND: 18011, 18056  
07/25/02 AMEND: 791.7; Forms FG OSPR-1925,  
FG OSPR-1947, and FG OSPR-1972.  
07/17/02 AMEND: 2090, 2105, 2420, 2425, 2530,  
2690 renumbered to 2850

**Title 15**

10/04/02 AMEND: 3025, 3315  
09/30/02 AMEND: 3006  
08/27/02 ADOPT: 3375.5 AMEND: 3000, 3375,  
3375.1, 3375.2, 3375.3, 3375.4, 3377  
08/19/02 ADOPT: 3426

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10/23/02 ADOPT: 1777, 1777.1, 1777.2, 1777.3, 1777.4, 1777.5, 1778, 1778.1, 1778.2, 1778.3  
 10/08/02 AMEND: 308  
 10/02/02 ADOPT: 306.3  
 09/24/02 AMEND: 1999.5  
 09/23/02 AMEND: 306.2  
 09/13/02 AMEND: 1811  
 09/11/02 ADOPT: 1706.5, Article 5, Article 6, Article 7, Article 8, Article 10, Article 10.1. AMEND: 1703, 1704, 1705, 1706, 1706.1, 1707.1, 1707.3, 1708.2, 1708.3, 1708.4, 1709, 1710, 1715.6, 1716, 1716.1, 1716.2, 1717, 1717.1, 1717.2, 1717.4, 1718, 1718.1, 171  
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 09/10/02 AMEND: 1305, 1306, 1328  
 09/09/02 AMEND: 438  
 08/20/02 AMEND: 1382.3  
 08/08/02 AMEND: 1707.2  
 08/07/02 ADOPT: 4140, 4141, 4142, 4143  
 08/01/02 ADOPT: 3367, 3368  
 07/31/02 AMEND: 2473  
 07/30/02 AMEND: 1399.523  
 07/26/02 AMEND: 3340.16, 3340.16.5, 3340.17, 3340.32, 3340.42, 3340.50 REPEAL: 3340.16.7  
 07/17/02 AMEND: 1387.1

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11/12/02 AMEND: 94006  
 10/29/02 AMEND: 54000, 54001  
 10/08/02 AMEND: 93105(a)(1)  
 09/24/02 AMEND: 6020, 6025, 6035, 6050, 6051, 6065, 6070, 6075  
 09/04/02 ADOPT: 94200, 94201, 94202, 94203, 94204, 94205, 94206, 94207, 94208, 94209, 94210, 94211, 94212, 94213, 94214  
 08/29/02 AMEND: 57332  
 08/22/02 ADOPT: 33001, 33002, 3303, 33004, 33005, 33006, 33007, 33008, 33010, 33011, 33012, 33013, 33014, 33015, 33025, 33050 AMEND: 33020, 33030, 33040 REPEAL: 33001, 33010  
 08/20/02 ADOPT: 93112  
 08/19/02 ADOPT: 94164, 94165 AMEND: 94010, 94011, 94153, 94155, 94163,  
 08/08/02 AMEND: 58420  
 08/08/02 AMEND: 30253  
 07/22/02 ADOPT: 93105  
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10/08/02 AMEND: 24344(c)  
 09/19/02 AMEND: 305.1  
 09/03/02 ADOPT: 1534  
 09/03/02 AMEND: 1540  
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 08/20/02 AMEND: 1528  
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10/21/02 AMEND: 981.3(a)(b)(d)  
 10/10/02 ADOPT: 2735.3(rr), 2770.4.1 AMEND: 2735.3(rr) to (zz), 2770.5  
 09/12/02 ADOPT: 2575, 2575.1, 2575.2, 2576, 2576.1, 2577, 2577.1, 2577.2, 2577.3, 2577.4, 2577.5, 2577.6, 2577.7, 2577.8, 2578, 2578.1, 2578.2  
 09/12/02 ADOPT: 2575, 2575.1, 2575.2, 2576, 2576.1, 2577, 2577.1, 2577.2, 2577.3, 2577.4, 2577.5, 2577.6, 2577.7, 2577.8, 2578, 2578.1, 2578.2, 2578.3

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10/28/02 ADOPT: 1601, 1602, 1602.1, 1603, 1604, 1605, 1605.1, 1605.2, 1605.3, 1606, 1607, 1608 REPEAL: 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608

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 11/05/02 AMEND: 1256-9, 1253. 12-1, 1030(a)-1  
 10/31/02 ADOPT: 64806  
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 10/21/02 ADOPT: 110226, 110242, 110251, 110336, 110337, 110355, 110485, 110547, 110615, 116004, 116018, 116036, 116038, 116042, 116061, 116062, 116063, 116100, 116102, 116104, 116106, 116108, 116110, 116114, 116116, 116118, 116120, 116122, 116124, 116130, 116132, 116  
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 10/07/02 AMEND: 5000, 5065, 5102  
 09/30/02 ADOPT: 110550 AMEND: 110413, 113100, 113200, 113300 REPEAL: 12-401.1, 12-104.432  
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09/03/02 ADOPT: 69100, 69101, 69102, 69103, 69104, 69105, 69106, 69107  
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 08/27/02 AMEND: 12601, 12201  
 08/22/02 ADOPT: 110385, 110449, 110554, 118020, 118203  
 08/21/02 AMEND: Chapter 1 ; Section 7000  
 08/14/02 ADOPT: 111560  
 08/06/02 ADOPT: 66273.6, 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.68, 66273.69, 66273.90 AMEND: 66271.9, 66273.1, 66273.8, 66273.9  
 08/06/02 ADOPT: 63000.17, 63000.47, 63000.66, 63000.70, 63000.81 63000.84, 63000.85, 63000.86, 63000.87, 63000.88, 63015, 63058 AMEND: 63000.19, 63000.37 (and renumbered to 63000.67), 63000.40, 63000.43, 63000.62, 63000.86 (and renumbered to 63000.89), 63000.89  
 08/05/02 AMEND: 68200, 68201, 68202, 68203, 68204, 68205, 68206, 68207, 68208, 68209, 68210, 68211, 68212, 68213, 68214  
 08/01/02 AMEND: 66262.54, 66264.71, 66264.72, 66265.71, 66265.72, 66270.30, Appendix  
 07/22/02 ADOPT: 111550  
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 08/09/02 ADOPT: 80075.1, 82075.2, 87575.2, 87925 AMEND: 80001, 80061, 82001, 82061, 87101, 87561, 87801, 87861  
 08/07/02 AMEND: 101218.1, 102419, 102421  
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07/24/02 ADOPT: 110000, 110042, 110046, 110088, 110099, 110109, 110129, 110135, 110147, 110148, 110150, 110164, 110182, 110184, 110186, 110194, 110200, 110220, 110224, 110230, 110252, 110261, 110289, 110341, 110410, 110431, 110436, 110445, 110456, 110474, 110478,  
 07/23/02 ADOPT: 87227.1, 87583.1 AMEND: 80007(a), 87101(s), 87107(a), 87114, 87118(a), 87222(a), 87561(a)(1)(A), 87585(a), 87587, 87700, 87702, 87807(a), 87854(d)

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 09/19/02 AMEND: 3937  
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 08/23/02 ADOPT: 2729, 2729.1  
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11/07/02 AMEND: 5575  
 11/07/02 AMEND: 1317, 1318, 1319  
 10/01/02 AMEND: 7202, 7234  
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07/23/02 ADOPT: 10010(a), 10010(b), 10010(c), 10010(d) REPEAL: 10010

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11/12/02 ADOPT: 1300.70.4, 1300.74.30 AMEND: 1300.68, 1300.68.01  
 08/19/02 ADOPT: 1300.73.21  
 08/12/02 ADOPT: 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008  
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10/21/02 AMEND: 31-001, 31-002, 31-075, 31-401, 31-405, 31-410, 31-420, 31-440, 31-445  
 10/02/02 ADOPT: 40-107.141, .142, .143, .144, .15, . 151, .152; 42-302.114, .114(a)-(c), .21(h)(l), .3; 44-133.8; 82-833 AMEND: 40-107.14, 16, .17, .18, .19; 42-301.2; 44-133.51; 82-823  
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 08/30/02 ADOPT: 16-001, 16-003, 16-005, 16-010, 16-015, 16-105, 16-120, 16-130, 16-201, 16-215, 16-301, 16-310, 16-315, 16-320, 16-325, 16-401, 16-410, 16-501, 16-505, 16-510, 16-515, 16-517, 16-520,

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07/26/02 AMEND: 63-402

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